ATLANTIC STRIPED BASS REAUTHORIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4124

A BILL TO AUTHORIZE APPROPRIATIONS TO CARRY OUT THE ATLANTIC STRIPED BASS CONSERVATION ACT FOR FISCAL YEARS 1989 THROUGH 1991, AND FOR OTHER PURPOSES

MAY 5, 1988

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ATLANTIC STRIPED BASS REAUTHORIZATION

THURSDAY, MAY 5, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:10 p.m., in room 1334, Longworth House Office Building, Hon. Gerry E. Studds [chairman of the subcommittee] presiding.

Present: Representatives Studds, Hughes, Hochbrueckner, Schneider, Bateman, Saxton, and Herger.

Staff present: Jeffrey Pike, Jim Hoff, William Stelle, Joyce Sacco, Lisa Murray, Tom Melius, Rod Moore, and Kelly Faulkner.

STATEMENT OF HON. GERRY E. STUDDS, CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The subcommittee will come to order.

We meet today to hear testimony on H.R. 4124, a bill to reauthorize the Atlantic Striped Bass Conservation Act of 1984, and to extend the Emergency Striped Bass Study.

The purpose of this bill and the law that it would reauthorize is to assist in the restoration of striped bass to its historic status as one of the most important commercial and recreational species in the United States.

The management program that has developed under this act is unique. It relies primarily on individual States to develop regulations for their waters that are consistent with the Atlantic States Marine Fisheries Commission's management plan for striped bass. If a State fails to do this, it is subject to a federally imposed moratorium. I am pleased to note that the record of State compliance has so far been excellent. It has not been necessary for the Federal Government to impose a moratorium on striped bass fishing in any State.

Implementation of the act has demonstrated that active cooperation between coastal States and the Federal Government can produce a unified approach to managing this highly migratory species. Once thought to be depleted and nearly declared an endangered species, the stripers are now beginning to return. The reauthorization of the act would allow this to continue.

The bill before us would not only extend the provisions of the act to ensure State compliance with the interstate striped bass management plan, it would also extend the Emergency Striped Bass

Study itself. The study, conducted by the NMFS and the Fish and Wildlife Service is designed to generate detailed data on striper populations to serve as the technical foundation for future management.

Finally, the subcommittee staff has developed a proposal to establish a striped bass stamp, which I understand has been circulated to the witnesses. I hope as well to generate some discussion on the merits of this proposal today.

Let me just first apologize for the delay. The House is in session on the defense authorization bill and under an unusual rule. For the indefinite future, we are going to be having regular votes roughly every 10 minutes, which is not good for the blood pressure, especially when one considers the subject matter of the votes. But the odds are that we are going to be interrupted every 10 minutes, indefinitely. If you think you can stand it, we will do our best—we are probably more used to this than you are—to survive and maintain some semblance of rationality, if not continuity.

I understand that we are going to begin with a slide presentation. Let me suggest that since members will be coming in and out that once the slide presentation starts that you continue it to its conclusion whether or not we are interrupted by bells. We will do our best to keep at least one member here as they run around in their proverbial circles in the course of the afternoon.

We are starting with the first panel. Welcome. Mr. Douglas, and Mr. Edwards, respectively, from the National Oceanic and Atmospheric Administration, and the U.S. Fish and Wildlife Service. Is it your joint slide presentation we are about to see?

Mr. DOUGLAS. Yes, sir, Mr. Chairman.

Mr. STUDDS. An interdepartmental venture?

Mr. DOUGLAS. Well, let me say that it's my pleasure, at the sufferance of my colleague from the Fish and Wildlife, to introduce to you, today, two of the finest scientists that both of our agencies have to offer. From the National Marine Fisheries Service, Dr. Anne Richards, from our Northeast Fisheries Center at Woods Hole. I have assured her that the Chairman would be his most usual gracious self. She is one of your constituents from Falmouth, Mr. Chairman.

Mr. STUDDS. You ordered her from Woods Hole to Washington? [Laughter.]

Mr. DOUGLAS. She was delighted to come, sir. She wanted to present this. So we present Dr. Richards, who took her PhD at the University of Rhode Island in zoology.

With her, from the Fish and Wildlife Fishery Center in Leetown, WV, is Dr. Paul Rago, who took his PhD from the University of Michigan.

Both of these people have been the principal science representatives from our respective Agencies to the State and Federal working groups on striped bass.

They each have a presentation with a tremendous amount of data and information, Mr. Chairman. I think it will be very informative for everyone here. In fact, I will limit my comments at the conclusion to just a couple of things. I am sure Mr. Edwards will do the same, because I think it's very vital that you see some of the results of what we are finding in striped bass over the years.

If it would please the chairman, we would be ready to do that presentation right now with Dr. Richards, and then, Dr. Rago.

Mr. STUDDS. Had I known that the presentation was going to be at least in part by someone from Woods Hole, I would not for one moment have suggested that it continue in our absence. [Laughter.]

Do you promise to send her back immediately?

Mr. DOUGLAS. Absolutely, Mr. Chairman.

I don't know whether Mrs. Schneider was here when I just mentioned that Dr. Richards is perched right next to Rhode Island.

Mr. STUDDS. She heard that.

Miss SCHNEIDER. I restrained myself from cheering and saying, what a brilliant woman. [Laughter.]

Mr. DOUGLAS. Well, she certainly is one of the finest and most shining stars in our scientific array.

So if that's fine, Mr. Chairman, we'll start right in.

Mr. STUDDS. Well, if we continue praising one another, the bells will ring again. [Laughter.]

So let's go to the presentation. Thank you.

Dr. RICHARDS. Thank you very much. I am going to have to come back here more often after that.

STATEMENT OF DR. ANNE RICHARDS, FISHERY BIOLOGIST, NORTHEAST FISHERY CENTER, NATIONAL MARINE FISHERIES SERVICE

Dr. RICHARDS. During the 1970's, as you all well know, there was a precipitous decline in the landings of striped bass. This was coupled with consistently poor production of juveniles in the Chesapeake Bay. These two trends, together, caused a great deal of concern over the fate of the striped bass in the northeastern United States. One of the responses to this concern was the establishment of the Emergency Striped Bass Study.

The Emergency Striped Bass Study has two primary goals, one of which is to monitor the status of the stocks. The other is to determine causes for the decline of the striped bass which occurred during the 1970's.

In my presentation, I will be summarizing the current status of the stocks. Dr. Rago will summarize the findings on the causes for the decline. Dr. Rago will also discuss prospects for the future of the striped bass and for its fisheries.

There are several important management events which occurred during the 1980's that are important to discuss, because the results of the monitoring of the status of the stocks are very much affected by these management changes. The most important ones are:

In 1981, the Atlantic States Marine Fisheries Commission Striped Bass Management Plan was adopted by the States. In 1984, the plan was amended to decrease fishing mortality by 55 percent. In 1985, the plan was again amended, this time to protect 95 percent of the females of the 1982 and subsequent year classes until 95 percent of them could spawn at least once. Also, in 1985, the States of Maryland and Delaware imposed a moratorium on striped bass fishing in their State waters. Currently, these moratoria remain in place.

We have very high minimum size limits in most areas. In most areas, it is 33 inches total length. In addition, there are a variety of other restrictive management measures including seasonal restrictions and creel limits. These management changes have been extremely important in protecting the striped bass from fishing and have entirely changed the complexion of the stocks as compared to the late 1970's and early 1980's.

The way that we determine the status of the stocks of the striped bass is through three types of monitoring programs. One is a series of surveys conducted in the major nursery areas spawning stocks to determine the abundance of juvenile striped bass each year. The second type is to sample the spawning stocks. The third monitoring program is for sampling the migratory stock, when it's stocks of mixed origin along the coast.

In addition to these monitoring programs, the Emergency Study began a very extensive tagging program for striped bass in 1986. I will be discussing that as well.

First, I would like to report on the results of surveys for juvenile abundance of striped bass. In the recent past, the coastal fisheries for striped bass have been supported by production in the Hudson River, from the Chesapeake Bay, and possibly, also, to an extent, from the Roanoke. In the past, the Delaware River was also an important spawning area for striped bass, but due to poor water quality conditions in that area, there has not been significant spawning in the Delaware River for many decades. The bulk of the coastal fisheries have been supported by the Chesapeake stock historically. But, of course, in more recent years that hasn't been the case.

This slide shows the results of those surveys for juvenile abundance in the three major spawning areas, the Hudson River, the Chesapeake Bay, which is shown in red, and the Roanoke stocks, over time. The salient feature of striped bass production really has been that there are years of very good production interspersed between years of poor to average production. Those very good years sustain the fisheries during the years of poor production.

But what we notice, and what caused all this concern, in part, was that between the early 1970's and 1986 there were not strong year classes appearing and ergo the landings declined.

In the Maryland portion of Chesapeake Bay, we still have not seen any sign of recovery of that juvenile index to show the effects of these protective management measures.

However, in Virginia, last year, in 1987, there was a very high juvenile index, which is extremely encouraging. In the Roanoke stock, there has not been any very good production since the mid-1970's. In fact, things are so poor right now in the Roanoke that the numbers don't even show up on this graph.

The Hudson, in contrast, has not shown any evidence of a decline over time. In 1987, we experienced the highest index on record for that stock.

I'd like to turn now to a report on the results from the surveys of sampling the spawning grounds. The majority of the work on sampling the spawning stocks was conducted in Maryland and Virginia waters of the Bay. This slide shows the age composition of males captured on the Maryland spawning grounds in 1982, 1984, and 1987.

The cross-hatch bars demark the year classes which have been protected by those more restrictive management measures. The solid bars are the year classes that have not received the benefit of that additional protection. What you can see is that in the early years the abundance of males is very low on the spawning grounds. Then, in 1984, we first see the 1982 year class showing up as they are maturing at age two. By 1987, there is a very nice resurgence of the male population on the spawning grounds.

If we look at the same type of data for females on the same scale as the males, we haven't seen the same kind of resurgence of the females. However, this is to be expected. Females mature at a later age than the males do. So we don't expect to see them in quite the same numbers.

This is the same data on a magnified scale for the females. What you can see is that in the earlier years, in the female spawning stock, the most important component is fish that are older. Remnants of the early 1970's, perhaps even late 1960's year classes were providing the bulk of the spawning stock.

In 1987, we begin to see the protected 1982 year classes, 5-year-olds, showing up. But the interesting thing is that they were not as abundant as we expected them to be in 1987. We now have information from two independent studies that the maturity rates of female striped bass may be much slower than we thought. In other words, they are maturing at a later age than we previously thought. This has obvious implications for the rates of recoveries of the stock.

Let's look briefly at the Virginia spawning stock, and the same type of data. Again, the males are not very abundant in the earlier years. We begin to see them returning as the protected year classes come through. By 1987, we have a good resurgence of the males in Virginia as well.

The females in Virginia, again, are present in low numbers in earlier years. Then, in 1987, we appear to have a fairly good representation by females as well.

I'd like to describe for you now the results of the sampling which is conducted on the migratory stock. This is a program which was just started in 1987 to sample the striped bass as they migrate past Long Island in the fall. We have one year of data. This data clearly shows, as does the data from the spawning grounds, the effects of the protective management measures. The bulk of the sample is comprised of those younger year classes that have been protected.

Finally, I'd like to describe briefly a tagging study which we have underway. It began in 1986. This is a tag applied to the striped bass. To date, we've tagged over 28,000 wild striped bass in Rhode Island, off Long Island. There is currently tagging going on in the Hudson, in Maryland, Virginia, and off the coast of North Carolina.

In addition, we have—not the Emergency Study, but the U.S. Fish and Wildlife—released over 25,000 hatchery raised striped bass that are tagged into the Chesapeake Bay. So we'll be following the progress of these fish to determine not only migratory routes, but, also, very importantly, fishing mortality rates. We will have this program in place when the fishery reopens. We will be able to

estimate mortality rates as the fishery starts up, which is an extremely valuable asset.

Just to summarize the status of juvenile production in the Virginia portion of Chesapeake Bay, we saw very encouraging signs in 1987, very high juvenile production. We also saw very high production in the Hudson in 1987. However, production in Delaware Bay, in the Maryland portion of Chesapeake Bay and in the Roanoke is remaining very low to date.

The results of the adult stock monitoring clearly show the effects of protecting those year classes from intense fishing. It's clear to me that that kind of protection has played a major role in starting to rebuild the spawning stocks. However, it's apparent from the age composition on the spawning grounds that we need to continue that kind of protection to ensure continuing the recovery.

Dr. RICHARDS. I'd like to turn the floor over to my colleague, Dr. Rago.

STATEMENT OF DR. PAUL J. RAGO, FISHERY BIOLOGIST, FISHERY CENTER, FISH AND WILDLIFE SERVICE

Dr. RAGO. Thank you.

For the past decade or so, the word "declining" has usually been associated with the striped bass. Today, I want to describe a more encouraging picture for striped bass. This optimism stems not so much from the current abundance of striped bass as it does from the stringent management measures that have been taken to restore the stock.

In a very real sense, we are currently in the midst of a large-scale population experiment. In this experiment, we have the unique opportunity, through the cooperative efforts of State governments and the Federal Government and through recreational and commercial fisherman, to witness the recovery of a major and valuable fishery resource.

Clearly, there are many challenges that remain. The importance of several key factors has not yet really been understood through our studies. But, in reality, the stage for recovery has been set.

When studies began in 1980, seven major hypotheses were proposed as potential factors responsible for the decline. For some of these factors such as predation, starvation, and water use practices, the evidence of their importance is rather limited. This is not to say that they are not contributing to the decline, but in comparison to others, they have less importance.

[See chart 1 at end of statement.]

For two other factors, climatic events and acid rain trends, the historical data are simply insufficient to ascribe them as being a major factor.

I'd like to describe the studies on acid rain for a moment. We know from laboratory studies that striped bass are clearly very sensitive to lowered pH. However, over time in a comprehensive retrospective study of all the major spawning areas on the East Coast, there was no evidence of a decline in pH during the period, nor an increased frequency of low pH events.

Two factors, however, stand out as being major in terms of causes for the decline: contaminants and overharvest. In the next

several slides, what I'd like to do is outline the scientific rationale for identifying and interpreting these two major effects.

As you recall, the decline in striped bass was sparked by two very disturbing trends. The first was a very rapid decline in the commercial landings, on the order of 22 percent per year. This was also coupled, as Anne has noted, with an absence of strong year classes during that same period. Thus, we had a coincident decline in two key aspects of the population.

[See chart 2 at end of statement.]

In order to describe these particular trends, we could not separate the effects of contaminants versus fishing. However, we knew that contaminants primarily acted on juvenile fish, so that the trend that would be necessary in contaminant-related mortality would have to be very steep during the period.

[See chart 3 at end of statement.]

In contrast, fishing, which acts on adult stocks, would have a very gradual decline in terms of the necessary trend to explain the simultaneous decline of landings and the absence of recruitment.

So the strategy, then, was that from an experimental sense, the population should respond very quickly to a change in fishing mortality. Coupling with that would be to develop techniques for identifying and studying the effects of contaminant mortality.

Contaminant studies have been conducted for the past five years. They have been conducted in the laboratory. We have, as I noted, shown that striped bass are among the most sensitive fish tested with respect to low pH and with respect to elevated aluminum levels.

Field studies have also taken place. These are in-situ chambers. We've had studies by Dr. Lenwood Hall, Johns Hopkins University, and researchers from our Columbia National Fisheries Laboratory. Studies have been taking place primarily in the Maryland portion of the Bay—the Potomac, the upper Bay, the Choptank, and the Nanticoke.

On this next slide, I've summarized the spatial and temporal distribution of the studies. The boxes indicate when a study was completed. The color of the box indicates the intensity or the results of a larval bioassay work. We have found that the variation in mortality varies over time and space.

[See chart 4 at end of statement.]

In 1988, we have developed the methods to the point where we can examine all of the major spawning areas in Maryland simultaneously for the entire spawning period. So this year we will have a much more comprehensive program to examine the effects of contaminant-related mortality.

Next, I'd like to address the question of the effects of fishing and the prospects for recovery. As the information has improved for our mathematical modeling efforts—and I'd like to recognize the work of researchers in various States from whom we have drawn heavily upon to obtain this information—we have been able to identify and to establish very tight correlations between observed and predicted values.

As you can see, during the period of very rapid decline our correlations are very strong. On the basis of this, we feel reasonably con-

fident in reconstructing the historical events and interpreting and projecting future outcomes.

[See chart 5 at end of statement.]

In this slide, what I have plotted is the estimated abundance of fish between the ages of three and seven for the period 1980 through 1988. As you can see, there has been a gradual increase in the numbers of fish between ages three and seven. Again, these are fish which would respond most quickly to the changes in the fishery management practices. You can see that we reached the level equal to the 1974-to-1979 average. In 1988, we anticipate exceeding that level. This period was one in which the stock obviously was declining very rapidly. You can also see that we are reasonably far from the level of when the stock was in very high abundance.

[See chart 6 at end of statement.]

However, the accumulated stock, which has been obtained through considerable sacrifice, would be quickly eroded by a return to fishery practices allowed during the period of decline.

What this graph shows is that the levels of reproduction, the young of the year index, would quickly return to levels as low as we experienced last year if fishing mortality were set at 12 inches in the Bay and 17 inches on the coast.

[See chart 7 at end of statement.]

So, through changes in fishing mortality, we have found that we can protect the existing stock. We have increased our understanding of the biology, particularly maturation and migration rates, as Dr. Richards has noted. We have increased the likelihood of a strong year class. We have, by no means, guaranteed that this is the case, but we have increased the probability. It also needs to be noted that the role of contaminants is, as yet, unresolved.

[See chart 8 at end of statement.]

In terms of ongoing activities, they are focused on two major areas: stock assessment and contaminants. Population monitoring is a vital or key aspect of the stock assessment. We work on developing new methods of stock identification, tagging programs, and mathematical modeling.

[See chart 9 at end of statement.]

Our contaminants' work is field-oriented. We have extensive geographic and temporal coverage in the Bay. It is focused on its relationship to recruitment variability.

In summary, considerable progress has been made toward understanding the decline of striped bass. The key factors have been identified. The experiments are underway to test these putative mechanisms.

More importantly, the Emergency Studies and the other efforts have laid the basis for a sound scientific management of striped bass.

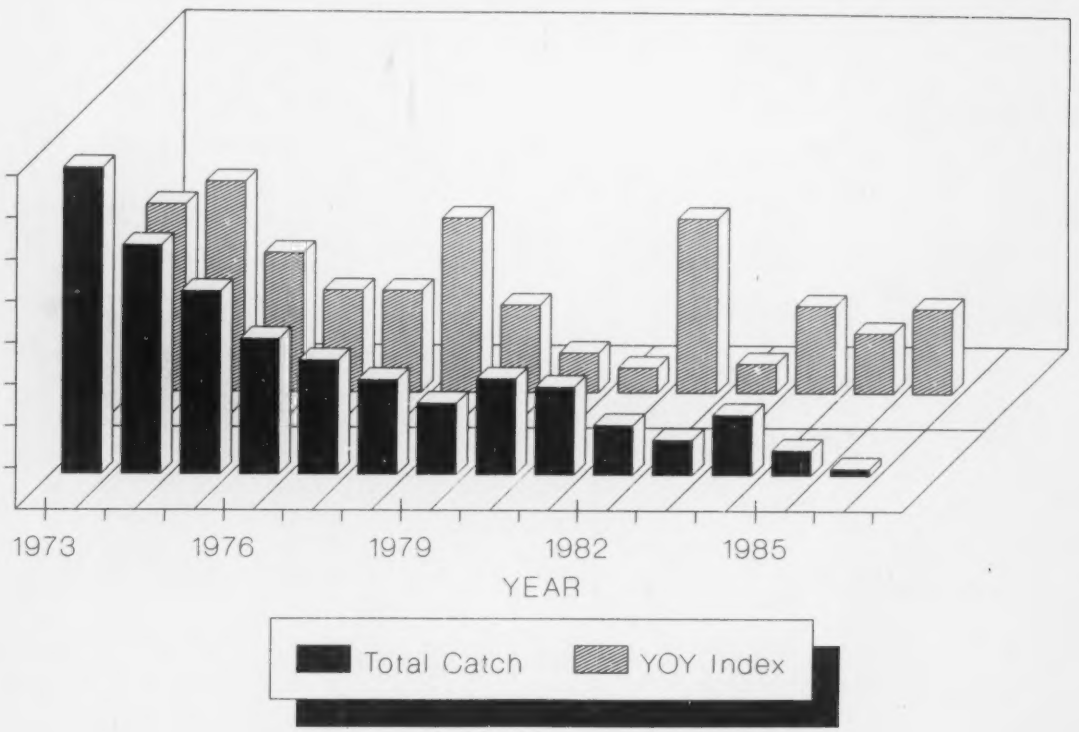
Mr. Chairman, that concludes our presentation. Thank you.

[The charts attached to the statement of Mr. Rago follow:]

CHART 1

Factors Responsible for Decline

Hypothesis	Evidence
Predation/Competition	Limited
Starvation	Limited
Water Use Practices	Limited
Climatic Events	Insufficient
Acid Rain Trends	Insufficient
Contaminants	Moderate
Over Harvest	Strong


DEMISE OF STOCK AND RECRUITS
1973
1976
1979
1982
1985
YEAR
Total Catch
YOY Index

CHART

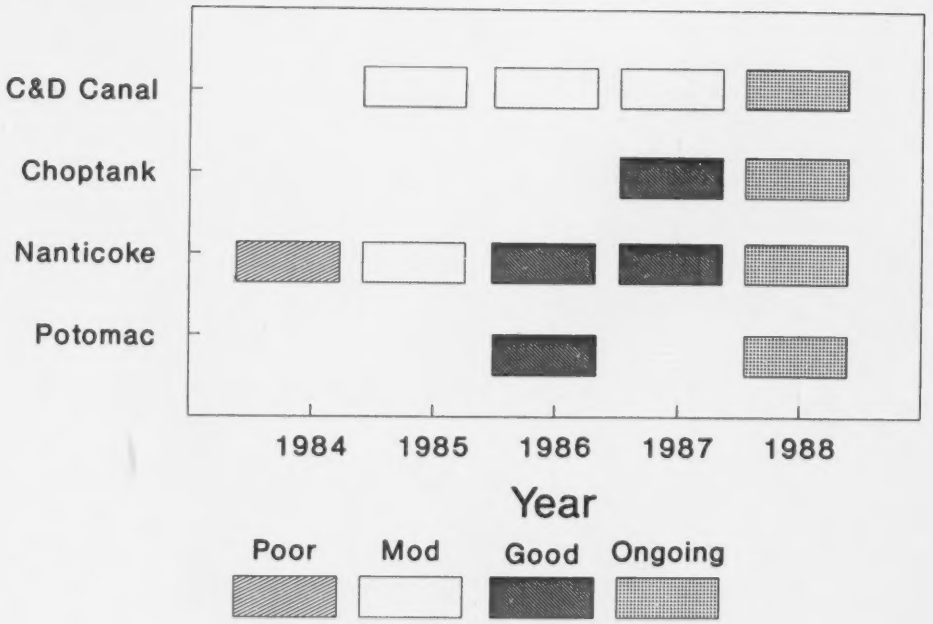
Explaining Observed Trends
1973 to 1982

Potential Mortality Factor	Affected Ages	Required Trend
Contaminants	Juveniles	Steep
Fishing	Adults	Gradual

CHART

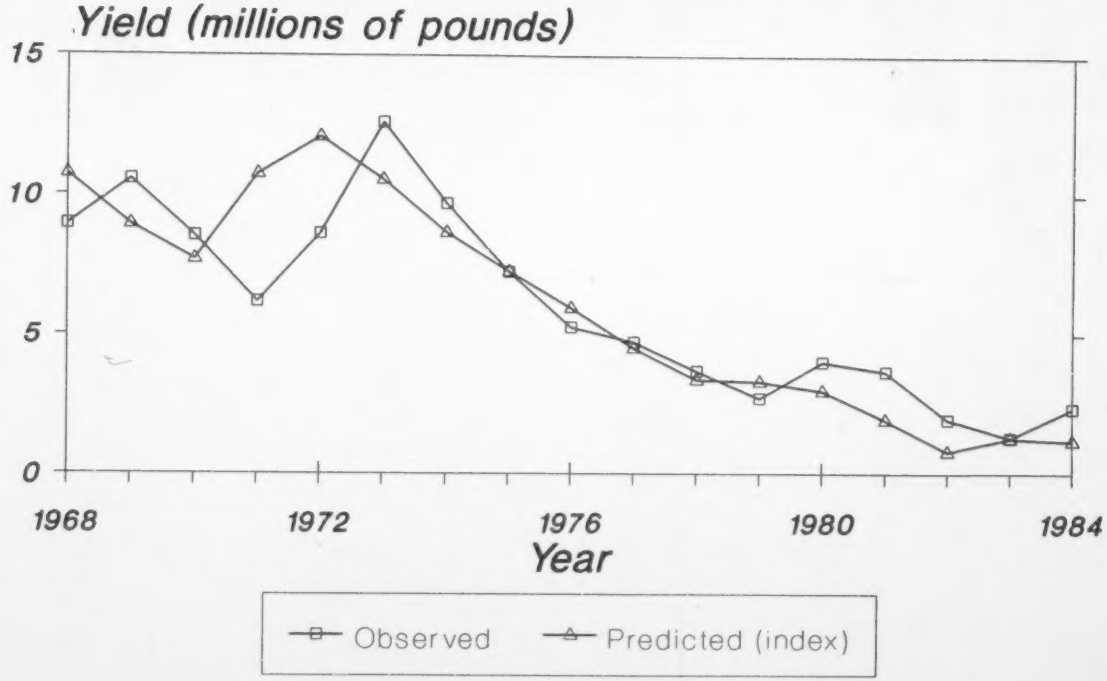
Contaminants Research
Larval Survival Bioassays

Sampling Area



CHART

Total Commercial Yield
Observed vs Model Predictions



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Estimated Abundance
Age 3 to 7

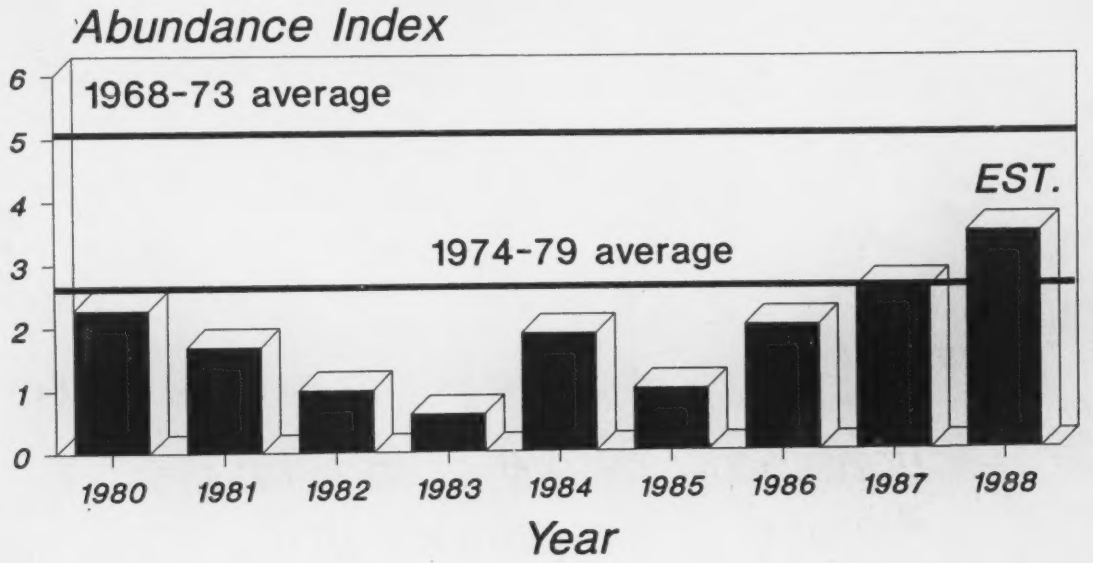
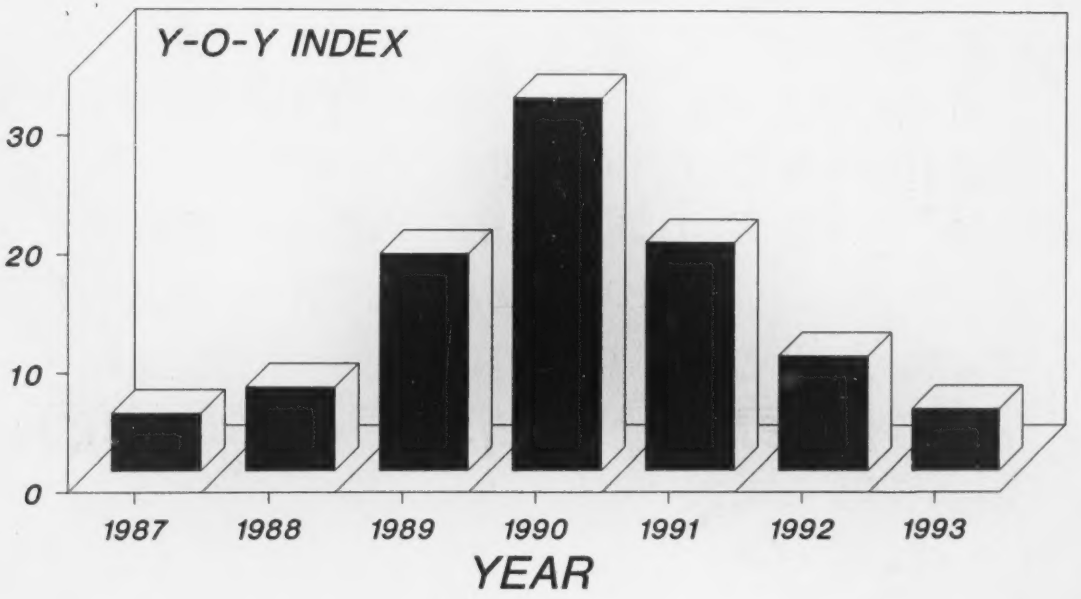


CHART 7

Excessive Fishing

Effects on Reproduction



C. AR.

Changes in Fishing Mortality

- Protected Existing Stock
- Increased Understanding of Biology, especially Maturation and Migration
- Increased Likelihood of Strong Year Class

BUT,

ROLE OF *CONTAMINANTS* IS UNRESOLVED

CHART 9

ONGOING ACTIVITIES

<u>STOCK ASSESSMENT</u>

- Population Monitoring
- Stock Indentification
- Tagging (Wild & Hatchery)
- Modeling

<u>CONTAMINANTS</u>

- Field Oriented
- Extensive Coverage
- Recruitment Variability

Mr. STUDDS. We are going to have to leave to go vote on the rail-based MX, which is why we may seem a little less than coherent when we return. We shall resume in approximately 10 minutes.

Thank you.

[Recess.]

Mr. STUDDS. The subcommittee will come back to order.

Let's see if we can take advantage of the next 10 minutes here.

Do you folks want to resume with your summary or your presentation?

Mr. DOUGLAS. Mr. Chairman, I think that our formal presentation of data from our scientists is concluded. If you would, both Mr. Edwards and I have a brief statement. I'll be mercifully brief because I recognize the problems that you're up against.

STATEMENT OF JAMES E. DOUGLAS, JR., DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. DOUGLAS. Let me go on and say that, as the subcommittee has seen, there are encouraging signs in some of the juvenile indexes, certainly in the last year. It appears that the management regime so carefully and painstakingly worked out among the States by way of the Atlantic States Marine Fisheries Commission is indeed showing signs of success.

But, indeed, we are not there yet. Striped bass abundance is still well below what I believe the States hope to achieve over time from these actions. The National Marine Fisheries Service certainly wants to applaud the ASMFC and the effective States for their arduous work and courageous actions in helping this species.

It appears to us that the Atlantic Striped Bass Conservation Act has indeed been the driving force necessary to gain the consensus and relative uniformity of action among the States in order to achieve the beginnings of success that we've seen here today. Accordingly, NOAA favors reauthorization of the act. We believe it is necessary to retain interstate cooperation or else the gains that appear on the threshold may be lost. It would indeed be tragic it this were to happen.

Mr. Chairman, NOAA sincerely wants this to be an interstate program. We want the decisions, the management measures, the enforcement, and the funding to be interstate in nature. NOAA does not support a continuation of the Emergency Study provisions. While we believe that much good work has been done, and you've seen some of that here today, the major work that remains is primarily monitoring. We believe that this can, and should, be done by the respective States. We think it is time for them to enter into this and be more of a funding source.

That concludes my synopsis, Mr. Chairman.

[The prepared statement of Mr. Douglas may be found at the end of the hearing.]

Mr. DOUGLAS. We can answer any questions that you might have on any of the other issues that are on your mind.

Mr. STUDDS. Thank you all.

You were doing just fine until that last sentence there.

What is it that has changed that no longer, in the Administration's judgment, makes Federal support for the Study appropriate?

Mr. DOUGLAS. We don't believe that it's necessary to continue the Emergency Study provisions of this bill.

Mr. STUDDS. Where is it in the presentation, that we just saw, that you think the emergency has passed? I didn't get the sense of lack of urgency from your scientists' testimony.

Mr. DOUGLAS. Mr. Chairman, we think that what we have done is—as shown by the Fish and Wildlife folks—we have begun to pinpoint and have taken some of the mystery out of what the causes of the declines were. As shown, we think it's basically overfishing. Overfishing is under control.

Mr. STUDDS. Wait a minute. There's a whole bunch of stuff there that I thought I saw insufficient evidence on, starting with acid rain. Did I not? Do we know what role acid rain may or may not play in the decline?

Mr. DOUGLAS. Well, let me turn to our scientist who is doing that work.

Mr. STUDDS. Before you assure us that all the questions are answered.

Mr. DOUGLAS. Well, all questions are never answered, Mr. Chairman.

Mr. STUDDS. Well, I understand that. But you were just being very reassuring about how we didn't need to continue with the Emergency Study.

Mr. DOUGLAS. I understand. I think that in light of the work that has been done, in light of the Federal budget problems——

Mr. STUDDS. I knew you would come to that. I just want to make sure that's what it was.

Mr. DOUGLAS. Well, there's a series of things, yes, sir. I think all of those things argue against continuing the Emergency Study funding. We do believe that there's a monitoring need. We believe the States can and should pick that up.

Mr. STUDDS. There were five or six or seven potential, hypothetical explanations for the decline, as I recall, of which you focused in on a couple: overfishing and contaminants. The rest, as I recall, you didn't so much rule out—if I understood it correctly. You didn't have enough evidence to make a judgment on it one way or another. Is that correct?

Dr. RAGO. Well, for three of the factors, predation, starvation, and water use practices, and one other factor, the evidence was very limited that this could have been a cause.

Mr. STUDDS. What does that leave us with on the addressed hypotheses?

Dr. RAGO. The primary one, I think, is the issue of contaminants, in a very generic sense, ranging from organic contaminants through pH depressions.

Mr. STUDDS. What about acid rain?

Dr. RAGO. Low pH depressions would be a manifestation of an acid-rain event. We know from laboratory studies that striped bass are very sensitive to low pH, elevated aluminum, and other factors associated with those events.

Mr. STUDDS. Am I correct in inferring from what you said that you were not yet prepared to make a scientific judgment of the effects of acid rain on the stocks?

Dr. RAGO. Yes. Based on the available historical data, there was no evidence that there was an increase in the frequency of low pH events, nor was there any evidence of a decreasing trend in pH over the period. Now that's not to say that low pH and elevated aluminum did not intermittently cause problems. But there was not sufficient evidence of a trend.

Mr. STUDDS. Right.

How much did we spend last year on the Emergency Study?

Mr. EDWARDS. We spent $1 million.

Mr. STUDDS. A whole million dollars? It was a little less, I am told; but approximately $1 million. We can't afford that? Is that what you are saying?

I'm sorry. This is just not a good week for this subject. The President, last night, suggested, as you may know, that he is going to veto the defense appropriation authorization bill on the floor because it was $1.5 billion too little for Star Wars. You are here—in his name, I assume—informing us that we can't afford the $868,000 that was appropriated last year for this. Perfectly logical. It follows. I just want to make sure the record reflects it.

I appreciate the presentation, except for that last photograph which makes me feel inadequate. Either the fish or the person wasn't real. I haven't concluded which. [Laughter.]

It makes me very sad.

I want the record to reflect that whatever threats there may be to the striped bass, I am not one of them. It's not that I haven't tried.

Mr. DOUGLAS. Mr. Edwards has——

Mr. STUDDS. Oh, I'm sorry. You mean to say that you haven't finished your statement? I apologize.

Mr. EDWARDS. That's quite all right, Mr. Chairman.

I, too, will keep my remarks brief. I would request that my complete testimony be submitted for the record.

Mr. STUDDS. Certainly. Your prepared statement will appear in the record immediately following your oral presentation.

STATEMENT OF GARY EDWARDS, ASSISTANT DIRECTOR FOR FISHERIES, U.S. FISH AND WILDLIFE SERVICE

Mr. EDWARDS. I am very pleased to be here today to discuss reauthorization of two statutes that have been central to restoration of Atlantic coastal migratory stocks of striped bass. We support reauthorization of the Conservation Act for two years, but believe extension of the funding authorization for the Striped Bass Study Act is unnecessary.

The Conservation Act represents an unqualified success story. Full implementation of the Atlantic Striped Bass Marine Fisheries Commission amended striped bass management plan is largely attributable to the consensus and the cooperative spirit engendered by the Conservation Act.

Implementation of the act has been effective in halting and beginning to reverse the decline of Atlantic migratory striped bass

stock. The Conservation Act has provided the Commission with the support needed to broaden the scope of existing management of Atlantic Coast striped bass by the 14 jurisdictions involved.

The authority designed to ensure that the Commission's striped bass management plan is implemented will expire after September 30 of this year. Without this authority, the substantial progress since 1984 in reversing the decline of Atlantic coastal striped bass stocks may be lost. To avoid this outcome, we support a 2-year rather than a 3-year extension and reauthorization of the act.

A 2-year period would provide a necessary transition to allow completion of the Commission's new fishery management plan as well as ensuring that the plan is thoroughly reviewed before being approved and implemented.

The appropriation authority for the Striped Bass Study Act will expire at the end of fiscal year 1988. The Administration does not support reauthorization.

After 8 years of concentrated research, it is now clear that the decline of Atlantic coastal migratory stocks of striped bass is a more complex and difficult problem than originally perceived. However, substantial new information and insight about these stocks have been gained from the cooperative studies conducted under authority of the Study Act.

If harvest restrictions can be maintained for several more years, a substantial increase in spawning may be realized from the large striped bass brood stock that now exists due to the sacrifices of anglers from Maine to North Carolina. This increased spawning potential provides the opportunity to determine whether the population decline was due to overharvest or in part to reproductive failure caused by some alternative factor, principally high levels of contaminants in spawning areas.

Mr. Chairman, this concludes my prepared testimony. I would be pleased to respond to any questions that you or other members of the committee may have.

[The prepared statement of Mr. Edwards may be found at the end of the hearing.]

Mr. STUDDS. Thank you, sir. I am sorry about jumping in prematurely.

I gather you have grave constitutional questions about the proposed statute? Is this your testimony I am reading from? "To avoid potential constitutional issues * * *"

Mr. EDWARDS. Yes, sir.

Mr. STUDDS. One would have thought the Justice Department attorneys were preoccupied. They are attacking the Striped Bass Act now, are they?

Mr. EDWARDS. Mr. Chairman, I think the concern rests with the appointments clause and the concern that if a new management plan does come about there needs to be a mechanism for Congress to have oversight of that plan, as opposed to just coming directly through the Commission.

Mr. STUDDS. Well, it's nice to know that the lawyers are busy and looking after our constitutional prerogatives, as is their want. We really appreciate that.

I wish we had much more time because I would like to talk to the scientists about all kinds of things, not the least of which is how they attract the fish they study.

The gentleman from Virginia?

Mr. BATEMAN. I have no questions, Mr. Chairman.

Mr. STUDDS. The gentleman from New Jersey?

Mr. SAXTON. Thank you, Mr. Chairman.

I am sorry I missed the presentation. Apparently, it was quite interesting, particularly in light of what the chairman said about the last slide.

Apparently during your presentation you indicated that you've been able to identify two major sources of the problem relative to the striped bass population. One, of course, is overharvest. The other is that there are certain contaminants that you've apparently identified as the problem.

I'm wondering if you have specific information that you can share with us about the sources of those contaminants and possible recommendations for steps that might be taken to deal with that problem?

Dr. RAGO. In terms of the sources of these contaminants——

Mr. SAXTON. First of all, can you tell us what they are? What have you identified as being the contaminants themselves?

Dr. RAGO. They have been identified insofar as low pH is a key factor and elevated aluminum levels are also a factor.

In addition, there is a suite of organic contaminants and metals which exists from time to time, as one of the slides showed. The problem with contamination does not appear to be a consistent one across time and space. However, in some instances we've observed—in the eastern shore rivers, for example, less well-buffered systems—that low pH events do occur. Elevated aluminum levels also occur.

We have shown that by diluting the ambient river water with well water we can get what we call a dose/response relationship. The mortality rates decrease as you increase the proportion of clean water in the system. You get a response in which, as you increase the fraction of river water, you get more mortality occurring. It appears to be a suite of contaminants. No single one has been identified at this point.

As far as where they come from, there have been, obviously, long-range transport of sulfur and nitrogen/oxygen compounds are factors. Other ones might be related to agricultural practices.

Mr. SAXTON. Would the sulfur compounds, are they related to acid rain?

Dr. RAGO. Yes. They are what we call the precursors for the acid; the lowering of pH in the rain water.

Mr. SAXTON. Have you been able to draw a conclusion that acid rain is a major contributor to the high sulfur levels?

Dr. RAGO. Well, it would be the other way around. The sulfur levels are a primary contributor to the lowered pH.

Mr. SAXTON. Have you been able to draw the conclusion that that's directly related to acid rain?

Dr. RAGO. Yes.

Mr. STUDDS. We should grant immunity, I think, to any witness working for this Administration so their jobs will not be at stake. Contradict you know who. [Laughter.]

Dr. RAGO. Alternative employment opportunities, as well.

Mr. SAXTON. What other sources have you identified?

Dr. RAGO. In terms of contaminants?

Mr. SAXTON. Yes, sir.

Dr. RAGO. I think that general industrialization—and so forth—has been the general cause of the associated deposition either through dry or wet precipitation. That has been the factor. To the best of my knowledge, with several exceptions, perhaps, there are not major point-source loadings of contaminants. It's a more amorphous problem associated with broad range——

Mr. SAXTON. Do nitrates play a part?

Dr. RAGO. Yes. They would contribute.

Mr. SAXTON. They're a significant part?

Dr. RAGO. I am not familiar with the relative contribution of nitrates to sulfates. I know that there has been some information in the news recently concerning nitrogen compounds and their role. These are ones primarily emitted from automobile exhaust.

Mr. SAXTON. How about the effect of fertilizers, agricultural pursuits. Is that a major factor?

Dr. RAGO. We have observed high nitrogen levels in some instances. I know that studies conducted by the State of Maryland have also shown pulse events; that is, very quick increases in nitrates.

Mr. SAXTON. I feel like I'm kind of trying to pull everything out of you. Can you just make a general statement that we've got certain problems and that those problems come from certain sources? And if you were sitting in our seats, that you would do a certain thing with some law to restrict the use of certain substances or restrict in automobiles the emission of certain elements into the air that cause acid rain. Can you just give us a broad statement and say, here's the problem guys. Here's how you fix it.

Dr. RAGO. Well, speaking as a scientist, and relating these comments to striped bass, I would say that at this point there may be degradation of habitat, decreases in larval survival, and so forth associated with contaminants and low pH, elevated aluminum, the whole suite.

These levels of mortality—in assessing whether that is a significant factor in terms of describing the decline, we really don't know that yet. One reason is because of the high historical variability that you see in the recruitment. As you've observed in the graphs, you have recruitment, or young of the year indices varying all over the place. That's the nature of the animal. That seems to be the conditions under which they've evolved. So it's difficult to separate out the low events or low recruitment from a contaminants point, or from a low-stock point.

Now as the stock rebuilds, we have the expectation, we have the hypothesis that the recruitment should increase. If it does not, and we can couple that with information on the contaminant loading and its role through these comprehensive studies, then we should be able to isolate the relative importance of both factors.

Mr. SAXTON. Thank you, Mr. Chairman.

Mr. STUDDS. You have to understand that, unlike administrators, scientists know too much to answer the questions. It's not these administrators, of course. But as a general proposition, it is something we have observed.

Let me apologize to you again. You've heard the bells. We have another—in this case a $1 billion amendment we must go vote on before we come back here and decide whether or not we can afford the $868,000 for this.

Are you able to remain? The gentleman from New York wants to ask a question of you, if you can stand it. Not him, but the wait. I have another question or two.

As I understand your testimony to date, the Administration says this is a serious problem. It has been addressed by the statute in the past. It seems to be working successfully. It should be continued, but somebody else should pay for it. Is that a fair summary?

Mr. EDWARDS. That's a fair summary.

Mr. STUDDS. Fine.

We'll be back in ten minutes. Thank you.

[Recess.]

Mr. STUDDS. OK. The subcommittee is in session. The gentleman from New York?

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

Being the Representative from the eastern half of Long Island, I have a major concern about the striped bass fishery on Long Island and the impact that it has had on commercial fisherman.

The issue has been raised with me that—obviously, there is a major concern about the striped bass fishery relative to the Chesapeake spawning area. I think it's certainly a concern of the whole east coast.

The concern that we have in the New York area and that whole region is that we have a situation where we are under the impression that there is a large number of fish that have been spawned in the Hudson. Those fish are now certainly in a catchable class, so to speak, 16 inches to 30 inches. They represent a sizable block of fish that we are being precluded from fishing.

My first question for you is: based on your scientific input, what would you say has been the spawning history of the Hudson ground at this point?

Dr. RICHARDS. All right. Well, there has been no evidence of any slide in reproduction.

Mr. HOCHBRUECKNER. OK.

Based on your top chart, which we can almost see—thank you. I can't see the bottom of the chart, so I don't know what years. I assume the——

Dr. RICHARDS. That starts in 1976.

Mr. HOCHBRUECKNER. The last one is which year? Last year or the year before?

Dr. RICHARDS. It is 1987, the last year.

Mr. HOCHBRUECKNER. So 1987 is the spike on the extreme right side on the top of the chart?

Dr. RICHARDS. Correct.

Mr. HOCHBRUECKNER. OK.

Now there are the striped bass juvenile indices. So clearly, there has been a dramatic increase in the New York component of the total striped bass fishery.

Dr. RICHARDS. That final point for 1987, of course, is just one year old this year. They wouldn't be ready to enter any fishery at this point.

Mr. HOCHBRUECKNER. OK.

So if the fishermen off of the east end of Long Island are seeing a tremendous number of fish, millions of fish, in the 16-inch to 30-inch class, then the implication is that if a large number of those are, in fact, from the Hudson then we can expect a tremendous abundance over the years ahead——

Dr. RICHARDS. In the future.

Mr. HOCHBRUECKNER [continuing]. Based on the fact that the two previous years were relatively low. They are obviously the component that has contributed to today's stock that is presently off the coast.

Dr. RICHARDS. Well, in that area it's not only the Hudson stock. There's a mixture of Chesapeake and Hudson stocks in that area, as I'm sure you are aware.

Mr. HOCHBRUECKNER. What would you say that mix is at this point, based on your background?

Dr. RICHARDS. Well, there has been a considerable amount of work done on what we call stock composition over the early to mid-1980's. The clearest message that comes from that work is that the composition of the stocks—the proportion of Chesapeake versus Hudson stock—in any one place changes greatly across time, between seasons, and between years. It also varies greatly between locations.

So I'm extremely reluctant to say it consists of x proportion Hudson and x proportion Chesapeake. The chances are that might be true one day out of the year, but on another day it could be completely different. So all I would really care to say would be that both of those stocks are present.

We haven't found any place outside of the Hudson River where there's only Hudson stocks or only Chesapeake stocks—on the coastal areas that is.

Mr. HOCHBRUECKNER. OK.

I would assume you accept the scientific fact that you can tell the difference between a Hudson spawned fish and a Chesapeake spawned fish based on the eye test. Do you accept that?

Dr. RICHARDS. The eye lens proteins?

Mr. HOCHBRUECKNER. Yes.

Dr. RICHARDS. Yes. I believe that is a good method. It's not an absolute method. There is uncertainty associated with any of those methods of stock identification. But I think that the error level in that method is extremely low, particularly compared to other methods of stock identification.

Mr. HOCHBRUECKNER. OK.

So, then, if using this reasonably acceptable scientific method indicated that the stock off the east end of Long Island was greater than 50 percent Hudson, that would be an acceptable conclusion from your point of view based on how acceptable the test is?

Dr. RICHARDS. Right.

I think the method is acceptable. I think the results for any one point in time are acceptable also. But you have to try and generalize from a sample taken, say, on September 30th, to the whole fall, or the whole year, or other years. I can't make that generalization. So I accept any one point estimate, yes.

Mr. HOCHBRUECKNER. I see.

Are there any other charts that—because I don't want to put the chairman through this again—relate to quantities associated with the Hudson that you could review with me?

Dr. RICHARDS. The other slide that related to your area is the results from the Long Island sampling that was conducted last fall of the mixed——

Mr. HOCHBRUECKNER. Could I trouble you to call that up?

Dr. RICHARDS. Sure.

Mr. HOCHBRUECKNER. Then, Mr. Chairman, I apologize for——

Mr. STUDDS. Just don't show him the last slide. [Laughter.]

Mr. HOCHBRUECKNER. In fact, if you could show us the last shot last, I would appreciate it. [Laughter.]

Dr. RICHARDS. Now you are going to get me in trouble.

Mr. HOCHBRUECKNER. Now that you've whetted our appetite, Mr. Chairman.

Dr. RICHARDS. There's Long Island. This shows the age composition from the coastal sampling that was conducted last fall. The cross-hatch histogram bars are the year classes that were protected from fishing. The solid ones are the ones that have not received protection since 1984.

Mr. HOCHBRUECKNER. So the indication, then, is that the fish are clearly increasing in quantity; I would assume.

Dr. RICHARDS. Right.

Mr. HOCHBRUECKNER. Based on the four or five year class, which would be the great spawners, I would assume.

Dr. RICHARDS. I'm sorry, what was the last part you said?

Mr. HOCHBRUECKNER. I am assuming that the fourth and fifth year, which are the largest in the bar—that, in essence, that bodes well for the fishery in that those would be the fish that would be most prolific in terms of producing new young.

Dr. RICHARDS. They would be the ones that would make up the bulk of a fishery, if a fishery existed in this area. They wouldn't necessarily be the spawners. This is a mixed sample of males and females. It is not separated out. The bulk of the females would probably not be mature by age four and five.

Mr. HOCHBRUECKNER. OK.

I thank you. If you could, show us that last slide. You've got me really titillated, Mr. Chairman.

Dr. RICHARDS. I don't think you'd like to see it. [Laughter.]

Mr. STUDDS. For the gentleman's information, the last slide was evidence of the extraordinary endurance, strength, and determination that it takes for a striper to survive getting by Long Island. [Laughter.]

Mr. HOCHBRUECKNER. However, not in recent years.

Mr. STUDDS. No.

Mr. HOCHBRUECKNER. Mr. Chairman, if I could continue and ask a few questions of the assembled panel?

Mr. STUDDS. You may. But try to be restrained. We have another panel.

Mr. HOCHBRUECKNER. Yes, sir.

My concern is one where I think—as you know, because of the PCB levels in the Hudson—a combination of two factors have eliminated the commercial striped bass fishing in New York State. One factor is that the parts per million of two have been exceeded in recent tests, so that the striped bass fish have not been acceptable in terms of PCB levels.

Secondly, of course, with the limit being raised to 33 inches, that has, in essence, taken the commercial fisherman out of the business. It has been very harmful to a 300-year fishery that has existed. There is a lot of tradition involved, certainly, on the east end of Long Island.

A concern that I have is this: it appears to me that there is a major concern about the Chesapeake and its ability to produce striped bass. I think it's very clear at this point that the Hudson, itself, is a very large spawning ground. It has produced a tremendous number of fish that are now, in essence, available for harvest, if they were allowed to be harvested.

The concern that we have is that fisherman are not being allowed to fish them. Yet we have a paradox. On the one hand, sports fisherman are allowed to take 33 inch and larger fish, which clearly have PCB levels above the 2 ppm since PCB's tend to reside in the fatty tissue. Yet we have a large abundance of smaller fish that are clean, from a PCB point of view, and yet they are not available and accessible to the fisherman.

The concern that I have is: where can we go from here? I offer a proposition to you. I'd like your opinion on it. If it were proposed that we have a one season allowable fishing season which would permit fish in the 16 inch to 30 inch class to be caught off eastern Long Island—in areas that the State DEC would approve as clean areas, in essence, meaning that you'd have fish that met the PCB requirements—is that something that you feel your area could support, either scientifically or from the Federal Government's point of view?

Mr. DOUGLAS. Mr. Hochbrueckner, I appreciate and understand your question because some of your folks have been in to see us about a year ago on this very problem. I think there's a gentleman who is going to succeed on one of the panels who has that same problem. But you're asking that question, really, of the wrong panel.

Mr. HOCHBRUECKNER. Oh, I intend to ask it of the next panel. But I thought I'd give you an opportunity first.

Mr. DOUGLAS. Thank you.

I'm not going to express an opinion because the Federal position is that this is an interstate program. The States should make their own determination as to what is the most appropriate and most equitable fishing patterns among those States in order to achieve what the States wish to achieve.

I think it would be inappropriate for me to express—and it would be a personal opinion, sir, because we have not, as a staff, looked at this—my opinion, because we do want it to be an interstate program.

I have indicated to some of your people that what they should do is to talk to their representatives from New York State, whomever they may be, who are the representatives to the Atlantic States Marine Fisheries Commission group dealing with striped bass. If they can convince your own State people that this is an appropriate proposition, then see if they can convince their sister States through the ASMFC.

We would certainly look kindly, I think, upon whatever the ASMFC came forward with and believed was something that would indeed protect the striped bass. I think that the data that you have seen here, explained by Dr. Richards, is indeed that while we've made some strides, there are still leagues to go until we have that fishery back, coastwise now, to where we want it.

If exceptions can be made, it has to be done by that State and by the Atlantic States Commission, in conjunction with the other States that that exception is not going to be a problem to the other States on the east coast.

So the question really needs to be asked of them, and not of us, sir.

Mr. HOCHBRUECKNER. So if the State of New York took the position through DEC and its other areas, you would not have a problem with this kind of a one-season program to test the waters, so to speak?

Mr. DOUGLAS. No. I didn't say that, sir.

The lady on my right and the gentleman on the far right both represent the Federal Government at a scientific and statistical group that would review that. We would leave it up to our scientists, and to the scientists of the collective States, as to whether those kinds of things, in fact, can achieve—if you did that—the goal that they want. If it is the collective wisdom of that group—I still couldn't predict—I would guess that we would have no problem with it at that stage.

So I hope you understand the difference in saying that if the State of New York people believe this is OK, then I think it's okay. That's not true. It would need to go through the entire ASMFC collective scientific groups for their wisdom.

Mr. HOCHBRUECKNER. Can we hear from the scientific side?

Mr. STUDDS. Very briefly. We have a vote on the floor, and we are going to have to proceed.

Mr. DOUGLAS. Well, are you asking our scientists to decide now whether that's a good deal or not?

Mr. HOCHBRUECKNER. No. Just give me a comment as to what you think of the idea of having a one-season effort to open up the fishery and allow clean fish to be captured.

Mr. STUDDS. Let me just interrupt for a second. I don't think the gentleman will forgive me.

In fairness, that's not really a scientific question. That's a management question. That's almost a political question. If they want to respond, they may.

Mr. DOUGLAS. It takes data and a lot of other things. I don't want to speak for my scientist. She can speak for herself. I am saying that I doubt that it is fair to ask any scientist to respond to that question from a scientific point of view right now.

Dr. RICHARDS. I don't think I could reply to that just off the cuff. It would require a lot of consideration. It is not something that you can just say right offhand.

Mr. HOCHBRUECKNER. OK.

Well, I might just request that if you can think of any questions that you need an answer to that would affect your thinking, I'd certainly appreciate understanding those. But from my point of view, if it's clear that you have a large stock that is, in fact, clean of PCB's—if there are any scientific reasons that you can think of as to why it shouldn't be fished, other than the political and governmental end of it, I'd certainly appreciate any suggestions you might have so we can look further.

Mr. DOUGLAS. Let me add, sir, that certainly the whole purpose of the program is to be able to get back to where we can have a viable fishery on striped bass. I don't think anybody is denying that.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

Mr. STUDDS. I thank the gentleman.

In the remaining seconds before the panel dissolves, literally and figuratively, I was looking at the size limits that the various States have imposed. I note that the inland waters of North Carolina, in Albermarle Sound, are substantially lower, 14 inches and 16 inches. I assume that that is based upon the assumption that the Roanoke stock is nonmigratory.

Dr. RICHARDS. That's correct.

Mr. STUDDS. All right. My assumption is correct.

Is the initial assumption correct from a scientific point of view that that is a nonmigratory stock?

Dr. RICHARDS. Well, let me say that there is very little evidence to show that the Roanoke stock contributes to coastal fisheries. I don't think that we have a final conclusion on that because the evidence is based on tagging studies. There have been scattered returns of striped bass tagged in North Carolina caught on the coast or tagged on the coast and caught in North Carolina. But the proportion is extremely low. So we don't have good evidence that there is any kind of significant contribution at this point.

Mr. STUDDS. Do you mean that these are high provincial fish?

Dr. RICHARDS. They appear to be.

Mr. STUDDS. Of their own free will they choose to remain in North Carolina?

Dr. RICHARDS. Could be.

Mr. STUDDS. How extraordinary.

Dr. RAGO. If I might add a comment, though. Many of the tagging studies have been done on younger fish. One explanation for the absence of recoveries in the coastal waters is that in the face of very high exploitation rates, which have been documented in North Carolina, the probability of ever seeing one of those fish on the coast is very low. So there is some uncertainty.

Mr. STUDDS. Or perhaps they haven't gotten old enough yet to do their own thinking. That's another possibility.

I notice the same difference with the lower size limit above the George Washington Bridge in the Hudson. Is that based on the assumption that nobody is likely to live long enough to get below the George Washington Bridge? [Laughter.]

Or are those also provincial critters?

Dr. RICHARDS. The Hudson River fishery has been closed since 1976 due to PCB contamination of the striped bass, and so I think that——

Mr. STUDDS. Closed to commercial fishing?

Dr. RICHARDS. Right.

I am trying to think of where the cutoff is. It is above the George Washington Bridge somewhere where we believe that there are no Chesapeake stocks in the river.

Mr. STUDDS. Right. I understand.

I want to thank you all. I apologize again for the almost unendurable constant interruptions. It is, fortunately, a rarity for some of you. Unfortunately, it is a state of existence for us. We appreciate your testimony very, very much. I think we have understood it. We certainly welcome it, with the exception of the lack of enthusiasm on the part of the spokesmen for the respective Agencies with regard to carrying the Federal share of the cost of these programs. But we'll leave that debate for another day, and perhaps even another bunch of people, in the not too distant future.

Thank you all. For goodness sakes, get back to Cape Cod as fast as you can. [Laughter.]

Dr. RICHARDS. Well, there are leaves out here.

Mr. STUDDS. Do not stay here. I don't care what he says. Go, while you can. It is beautiful up there now. The weather has reversed.

Thank you all. We will resume in another ten minutes. My apologies to those who have been waiting.

[Recess.]

Mr. STUDDS. The subcommittee will come back to order.

We go to Panel II, with apologies. Mr. Alperin, Mr. Coates, Mr. Prosser, and Mr. Leo, if you are still here, I gather that—even before the situation became ridiculous in terms of timing—you had agreed, in a moment of absentmindedness, to confine your oral statements to no more than 5 minutes. We appreciate that.

Mr. STUDDS. We will try to see if we can't get through an entire witness, maybe even a panel, without interruption.

I assume you are to go in the order you appear here. We will start with Mr. Alperin.

STATEMENT OF IRWIN M. ALPERIN, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. ALPERIN. Thank you.

Mr. Chairman, and members of the subcommittee, I am Irwin Alperin, Executive Director of the Atlantic States Marine Fisheries Commission. I appreciate the opportunity to appear before your subcommittee today on behalf of the Commission's member States, in particular, those 12 States that participate in the Atlantic striped bass fishery management program. I am here to relay the Commission's views on H.R. 4124 that would reauthorize the Atlantic Striped Bass Conservation Act for 3 years and to address the questions that were posed to me in your letter.

The Atlantic Coast States have been managing striped bass under the auspices of the ASMFC interstate plan since 1981. Three

amendments to the striped bass plan were applied in quick succession to curb the fishery when it was determined that Atlantic migratory striped bass stocks continued to decline after initial plan measures were approved.

We believe that the current restrictions are responsible for the universally observed rebounding of the striped bass stock. In particular, protection of the females of the 1982 and subsequent year classes was very important in our efforts. To achieve this protection, all fishing efforts along the Atlantic coast were severely curtailed.

A number of States went further than amendment 3 required and imposed moratoria on striped bass harvest in their States. Moratoria are still in place in Maryland and Delaware. New York has a functional moratorium with its human health [PCB] closure. Minimal commercial landings, low possession limits on recreation fishermen, and seasonal closures are all working to allow the Chesapeake Bay striped bass stock to continue its recovery.

In addition to controlling fishing effort, the enforcement of striped bass regulations along the coast has been very good. The most recent ASMFC law enforcement committee striped bass report states that law enforcement agencies continue to place a high priority on the protection of striped bass and, further, that the courts are treating violations of striped bass regulations seriously. This report also notes the encouraging news that there is good public acceptance of the striped bass regulations.

A key component of our current striped bass management is monitoring striped bass populations. In the past few years, we have seen increased abundance of juvenile fish in the Hudson River, Virginia's portion of Chesapeake Bay, and some Maryland rivers. Concurrently, more post-juveniles are being observed by both fishery managers and the fishing public. We are also beginning to see the potential restoration of striped bass in the Delaware River system. Successful striped bass production in the Androscoggin River in Maine may establish a new nonmigratory population there.

On the down side, however, the upper portion of Chesapeake Bay, which in the past was the mother lode of the east coast striped bass production, has yet to show any signs of recovery. Because this area was so important historically, we feel the urgent need to continue protecting east coast striped bass until the upper Chesapeake Bay recovers.

As you know, Mr. Chairman, ASMFC is currently revising our striped bass fishery management plan to meet the current and projected needs of the fishery. Our striped bass board and scientific and statistical committee are looking at long-term strategies to achieve the goals of the fishery management plan. They are to conserve, protect, and restore Atlantic Coast migratory stocks of striped bass.

Among the issues that are being discussed are how to liberalize fishing regulations while maintaining adequate stock protection, taking geographic variation in fish size and abundance into account, appropriate area and seasonal closures, size limits, as well as varied lesser issues.

We would like to mention that the U.S. Fish and Wildlife Service and the National Marine Fisheries Service are active participants

in all of these Commission meetings and, thus, are assisting the Commission in updating our striped bass plan.

The foundation of revised fishery management plan regulations will be controlling the overall fishing mortality on the east coast striped bass at some appropriate level. This F-based management, as it is called, will be responsive to stock condition but will require adequate, continual monitoring of striped bass populations. We hope to have the fishery management plan ready for ASMFC approval at our annual meeting in September.

Some commissioners view the same arguments that were presented at reauthorization hearings in 1986 as still being relevant today. On the one hand, the act is viewed by some as an unnecessary intrusion by the Federal Government into a traditional area of State management. On the other hand, to most, the act is seen as effective in encouraging States to comply with the ASMFC fishery management plan, thereby assisting in the recovery of east coast striped bass stocks.

When H.R. 4124 was introduced, Commission staff polled all ASMFC commissioners to develop a consensus on reauthorization of the act. Commissioners were asked whether they favored or opposed reauthorization, and whether they would suggest any changes in the act. ASMFC currently has 41 commissioners; 38 responded to our inquiry. So 82 percent of the commissioners favored reauthorization of the act, 13 percent opposed reauthorization, and 5 percent abstained from voting. When this individual canvass is combined into State results, 13 States are in favor of reauthorization, 1 is opposed, and 1 State is cancelled out due to opposing votes and 1 no-answer.

Three commissioners proposed amendments to the act that may be of some interest. Two suggested that section 10b, which authorizes $200,000 for Chesapeake Bay stock replenishment, be deleted from the act. One commissioner suggested two amendments. First, to reauthorize the act for five years rather than three. Second, to require that noncomplying States be subject to ASMFC approved management measures rather than a moratorium on striped bass fishing.

I want to address the two proposed amendments as best I can. We've not had time to formally ask ASMFC commissioners what they think about the ideas of Secretarial review and a Federal Migratory Striped Bass Conservation stamp. But we intend to bring these issues before our executive committee and the Interstate Fishery Management Policy Board when they meet early next week. With your permission, we'll notify the subcommittee as soon as we have these views.

[The information may be found at the end of the hearing contained in the letter of May 13, 1988, from Mr. Alperin.]

Mr. ALPERIN. ASMFC staff informally discussed the idea of a Secretarial review of the striped bass fishery plan with State administrators from Maine to North Carolina. All administrators opposed this proposed amendment. They did not see the need for it.

As mentioned above, the National Marine Fisheries Service and the Fish and Wildlife Service currently participate in all of our scientific and managerial discussions. This peer review process seems sufficient in verifying that the fishery management plan will be ef-

fective in protecting and managing striped bass. Thus, we feel that ASMFC would oppose this proposed measure.

We also informally asked some State administrators from Maine to North Carolina about the concept of a striped bass conservation stamp because we had no specific information until last Friday. One-third of those administrators thought that the idea had some merit. ASMFC staff believes that if this amendment is pursued, ample time be taken to thoroughly develop, and make the public aware of, the idea before initiating a striped bass stamp program. In addition, we think there should be a cap on the administrative costs within the proposed funding.

I would like to mention a few things that we strongly believe are needed for the long-term management of striped bass. I've mentioned several times that adequate population monitoring is a must for any fishery management regime. We need long-term cooperative tagging as has been established in Rhode Island, New York, Maryland, Virginia, and North Carolina with the assistance of the U.S. Fish and Wildlife Service. We need stock discrimination and biological studies of striped bass to estimate the population parameters which are required for F-based management.

In addition, these data will assist us in dealing with the problem of geographic variation in striped bass stocks and fisheries. Emergency Striped Bass Study funds provide a vital, significant portion of the money used for striped bass population monitoring and establishment of a firm database and are, therefore, imperative to our current efforts. Due to the importance of this program, ASMFC annually coordinates workshops to review the past year's Emergency Striped Bass Study efforts and results as well as the findings of our own S+S Committee.

Equally important, is adequate monitoring and maintenance of environmental parameters. The early work under the Emergency Striped Bass Study on environmental factors influencing striped bass abundance has helped us determine which abiotic factors were affecting striped bass production. In this light, we appreciate the current efforts of the subcommittee in addressing the issue of coastal pollution.

Mr. Chairman, and members of the subcommittee, this concludes my prepared testimony. I thank you for allowing me to appear here.

Mr. ALPERIN. I will be prepared to answer any questions that you may ask.

Mr. STUDDS. Thank you, sir.

Mr. Coates?

My God, we have two Cape Codders trapped in the same room. Welcome back.

STATEMENT OF PHILIP G. COATES, DIRECTOR, MASSACHUSETTS DIVISION OF MARINE FISHERIES, AND CHAIRMAN, STRIPED BASS MANAGEMENT BOARD, ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. COATES. Thank you, sir.

I'll be brief. I think you already have my written comments. I hope they made it in the overnight mail. As you indicated, it's a

pleasure to be back again. And this time, in agreement with my colleague and coworker, Mr. Alperin, representing the views of the Atlantic States Marine Fisheries Commission in support of reauthorization. Massachusetts is strongly in support of reauthorization, as we were in 1986.

I'd like to speak briefly as the chairman of the Striped Bass Management Board. I can speak on two issues we have to address for the upcoming year. The first, of course, is what to do about amendment 3. This is the guiding light of the management plan right now, and basically assures protection of the 1982 year class.

Recent information, which was a result of studies funded by the Emergency Striped Bass Program, have revealed that the stripers don't mature at the size we thought they did. They fully mature 2 years later, the female fish. This is going to require some adjustment of amendment 3. The Board and the Commission will be meeting next week to address this issue.

Simplistically, we have three choices. We could close the fishery. We could raise the size again, to keep ahead of the maturation schedule. The third alternative would be to, perhaps, adjust the amendment. This is a choice that some of us aren't too much in favor of, but will be debated. I can assure you we will address that responsibly.

The longer term issue is the management plan which is now under revision. We're making significant progress. I can assure the members of the committee, and you, Mr. Chairman, that the management plan is not going to be a dramatic departure from what we've been doing before. We can't afford that. We feel that a conservative transition is the only way to move from restoration to fishing a restored stock. With that in mind, we'll probably have such elements as size limits, bag limits on recreational fishermen, season and spawning closures as the primary elements of that plan.

Speaking as the Director of the Division of Marine Fisheries on the amendments that have been suggested, I'm aware that there is a stronger push for a higher level of Federal review. My suggestion in that would be, if it ain't broke, don't fix it. I think we have a very innovative mechanism in place in the Striped Bass Act, which assures State compliance. I don't think it's necessary, at this point, to consider a stronger Federal role or a review of the plan before it's approved. I would respectfully recommend, Mr. Chairman, that it might be something to look at in a more generic basis and applicable to other interstate species as well.

The other amendment concerns that of a stamp. I've talked to some of the staff about that. Quite frankly, we're not opposed to the stamp. In fact, it seems like a rather innovative and efficient approach towards funding this type of program. There are some problems though. I think that there are going to be those who misconstrue this as a license. There's always that. The revenue generated—I'm not sure about whether or not it's adequate—would certainly pay the costs of the restoration, the monitoring, and the so-called Emergency Study.

It is the monitoring, particularly, that's needed if we get this new plan in place. Because the new plan is going to be monitoring intensive, it's going to require funding. The States are willing to

pay their share. We're willing to pay our share. But it is a shared process.

Lastly, as I indicated just a moment ago, I'm very interested in the success of the striped bass plan, as we all are in Massachusetts. Your leadership in this regard, Mr. Chairman, is most appreciated. I respectfully request that you look at the concepts of this management in a broader basis, particularly as it might be applied to some of the other species of migratory, interjurisdictional fish. There has been a lot of talk about interjurisdictional management over the last few years. Various people have taken a cut at it; Senator Chaffee, for example. The National Marine Fishery Service has hosted conferences and developed a position on it. I think that the relatively simple procedures developed within this act ought to be looked at in a broader basis.

There are many species that need management. Two which I can think of are black sea bass and scup, which are very important species commercially and recreationally. Massachusetts has three, four, or five different management procedures in place to protect that species but when it leaves State waters, other than size limits, it is virtually unprotected. We host the spawning stock of that species. We feel an obligation to protect it as much as possible. That is two examples of fish that are in need of broader management, and probably some kind of oversight.

I'll conclude my remarks now.

[The prepared statement of Mr. Coates may be found at the end of the hearing.]

Mr. COATES. I'll be glad to entertain any questions you may have.

Mr. STUDDS. Thank you.

Mr. Prosser?

STATEMENT OF NORVILLE S. PROSSER, VICE PRESIDENT, SPORT FISHING INSTITUTE

Mr. PROSSER. Thank you very much, Mr. Chairman.

I want to thank you on behalf of the Sport Fishing Institute for this opportunity to appear before you and offer our comments on H.R. 4124.

The Atlantic Striped Bass Conservation Act forged a delicate balance between the States' long-held purview to manage territorial sea fisheries. It was a Federal forcing mechanism that did not preempt State management authority, but did require all affected States to adopt consistency of regulatory enforcement. To date, the unique partnership forged by the act can only be characterized as a success story of truly remarkable proportions.

Although there have been short-term, but significant, sacrifices by commercial and recreational fishery participants and the dependant industries, without the adoption of the ASMFC plan, as stimulated by the Atlantic Striped Bass Conservation Act, the future of the striped bass fishery was bleak indeed. Suffice it to say that funding of the Act must be reauthorized to continue the recovery now well in progress but not yet fully attained. SFI strongly supports the intent of language of H.R. 4124.

The subcommittee staff, as has been noted this afternoon, has suggested two possible amendments to the act. The first would re-

quire Secretarial review of any new ASMFC striped bass management plan. The second amendment deals with the possible imposition of a Federal migratory striped bass conservation stamp. I'd like to briefly address each of those two proposed amendments.

Since passage of the act, the ASMFC member agencies have demonstrated enhanced commitment to making the hard choices necessary to restore striped bass. However, at a number of critical junctures over the years since passage of the act, the direct involvement of the Secretaries of Commerce and Interior have provided the institutional resolve to "hold the course" to continue the conservation activities so essential to the restoration of striped bass stocks. SFI would suggest, as a consequence, that Secretarial advisory review would seem to offer a safety net similar to that which has served well over the years since passage. SFI supports adoption of that proposed amendment.

The most interesting element of the subcommittee's proposal involves the concept of a Federal user fee collected from striped bass anglers and earmarked for striped bass management. SFI has repeatedly gone on record as favoring properly designed licensing and permitting programs for marine anglers.

The justification for our support is quite simple. The future of recreational fishing and the dependant industry, which is so vitally important to our organization, fully depends upon the stewardship agencies' abilities to provide essential management required to protect the stocks and the public participants that depend upon them.

Striped bass management has been indicated by the 2 speakers immediately preceding me. Without question, it will require enhanced monitoring and expenditure to provide the conservation necessary once we open the fishery. It is also equally certain that the financial resources are currently not available to most of the State management agencies. Although a user fee is deemed necessary and warranted, licensing of anglers and hunters within State borders has always been a strongly guarded State prerogative. We have been cognizant and supportive of the States' authority in this regard. We have supported State licensing in State waters in the past.

We propose, as an alternative concept to a Federal stamp, consideration of Federal legislation that would lead the ASMFC to offer a model migratory striped bass conservation stamp for implementation by the individual States. The Federal legislation should be crafted to provide strong incentives for adoption by the States of the stamp. Failure to adopt a striped bass stamp by an ASMFC member State, for purposes of striped bass conservation under the striped bass management plan, could, with continuing Federal incentive, result in restrictions on striped bass harvest within the waters of the uncooperative State, or be grounds for requiring a Federal stamp.

Such a concept was developed for Federal marine licensing in lieu of State licensing. Legislation introduced on at least two occasions during the 98th Congress. The proposed State striped bass stamp alternative could greatly reduce the States' concern over the licensing rights issue and possibly engender support among the affected coastal States. It's for this reason that we offer this as an alternative. The key consideration is to provide adequate resources

to provide the management that is so essential. State licensing, it should be noted, would also provide a much needed, ready matching source for Federal grants available to the States under the Federal Wallop-Breaux Trust Fund Grants Program.

SFI would strongly oppose the use of any stamp proceeds as an offset to appropriations from the Federal Treasury currently used by Federal agencies to meet their striped bass research responsibilities. Also, we would insist that all users of this common property resource participate equitably in the costs of the management, not just the recreational fishermen. Equitability, in our view, would entail a direct reflection of the harvesting pressure applied to that resource.

In summary, Mr. Chairman, the imposition of a Federal migratory striped bass stamp could well meet with strong opposition by the States and others. However, a State issued striped bass stamp under the auspices of the ASMFC, which has management responsibilities under the striped bass plan, may offer a plausible alternative. We certainly offer, and would like to work with the subcommittee to examine this option more fully. We'll certainly make available for use, by the subcommittee staff, our considerable experience on the marine angler licensing issue.

Mr. Chairman, that concludes my statement. I'd be happy to answer any questions you may have.

[The prepared statement of Mr. Prosser may be found at the end of the hearing.]

Mr. STUDDS. Thank you, sir. I appreciate that.

As I understand it, you think the stamp is a nice idea, but it ought to be left to the States with strong Federal incentives to do it?

Mr. PROSSER. Exactly right, sir.

Mr. STUDDS. I assume, within the spirit of the act, that would mean that if they don't do it, we will impose a moratorium on them?

Mr. PROSSER. That's a conceivable alternative.

Mr. STUDDS. That ought to work.

Thank you.

Mr. PROSSER. That's a novel idea.

Mr. STUDDS. Mr. Leo?

STATEMENT OF ARNOLD LEO, SECRETARY, EAST HAMPTON TOWN BAYMEN'S ASSOCIATION

Mr. LEO. Thank you, Mr. Chairman.

The striped bass is a fish of the most extreme importance to the commercial fishermen on the east end of Long Island. I think that point was probably made by a group of us from the east end of Long Island who came down here last year and visited many of the people participating here today in the hearing.

The management of striped bass entails a belief, these days, in a degree of accuracy by science which, I think, is perhaps not presently available. When I left East Hampton this morning, we were in the middle of an extraordinary run of squid. There have been 2, or really, even 3 years when a lot of the east coast, and certainly the Long Island area, has seen almost no squid.

Mr. STUDDS. What direction were they going?

Mr. LEO. They were heading, as usual, north in the spring.

Mr. STUDDS. Good.

Mr. LEO. But also, coming in from offshore. They entered the bay about a week ago in unprecedented numbers. Nobody remembers seeing squid around like this. The fishermen are saying that it's so darn good, it's bad. The squid are filling up the traps overnight; 6,000 pounds, 7,000 pounds, 8,000 pounds. That's 4 tons of squid out of 1 fish pound overnight. If a day comes along where the weather is bad and they can't lift that trap, some of that squid dies and sinks to the bottom. They can't even get the trap up. They have to cut it loose. It's so good, it's bad.

Now that was unpredicted. It shows how changeable the fisheries are. Two years, no squid; zero. Where did it come from? Nobody knows. The scientists haven't got the slightest idea. It shows the need for flexibility.

In the northeast range of the striped bass fishery, we're looking at literally tens of millions of striped bass. We've seen them coming now for 8 years. They're breeding in the Hudson. The scientists show that the reproduction rate there for 8 years has been very good. In 1987, it was overwhelmingly successful.

I want to point out, by the way—to those who have been taking credit for the 24 inch size limit and the 33 inch size limit restoring bass stocks—that the facts don't support that. The Hudson stock of striped bass started reproducing extremely well back in 1979. It reproduced very well for 4 years when we had a 16 inch size limit. We caught all the bass we wanted, 16 inches and up. The Hudson stock went on reproducing excellently well. It went on increasing. In 1987, it produced a dominant year class.

Now the truth is, we've got our fishery just simply choked full of striped bass. When they tell us that striped bass are scarce, and when they tell us that they need this extraordinary protection, we don't know what they're talking about. We're looking in the water. We're looking in the traps. There are unprecedented numbers. I shouldn't say unprecedented. They are equivalent to the bass runs that occurred in 1973.

Now we were being kept from working on them by New York State because of a PCB content that was unacceptable. But in 1987, as George Hochbrueckner has mentioned, the PCB tests showed that on the east end of Long Island the striped bass between 18 inches and about 30 inches, maybe even 31 inches, have all tested below 2 ppm. That fishery is clean. We're talking about tens of millions of fish.

Why are we not working on them? I think the Atlantic States Marine Fisheries Commission is embarrassed to talk about the Hudson River stock of striped bass. It has set up an inflexible—and very damaging to the commercial fisheries—standard, which it now has got to recognize cannot be fine tuned within the framework of how the Commission must work.

When that Commission was originally organized, it was supposed to come up with guidelines, recommendations for the States to follow. We think that's appropriate. We don't think it's appropriate that their recommendations are given the weight of law. So that when the States, such as New York and the others in the northeast

range of the striped bass fishery—and don't forget, the Commission is supposed to be dealing with a coastal stock of striped bass—when a significant portion of that coastal stock of striped bass is in tremendous, healthy shape, it should be worked on. The Commission is not able to respond quickly. It does not have flexibility to respond quickly to particular situations like that. It cannot fine tune its regulatory recommendations to take into account the particular situations that exist in the different States.

We think the problem is in the provision within the act that gives the Federal Government the right to impose a moratorium. We would like to see that provision of the act eliminated by amendment before the act is renewed.

On the other questions before us today, Secretarial review, we think, is a very good idea. But we're not quite sure if it would actually imply that the Secretary of Commerce, and I assume, perhaps, also, of Interior, would actually have the power to approve or disapprove of the plan before it was put into effect. That's the sort of situation we think would be better than it is presently.

The Commission is funded by Federal money. It's empowered by Federal law. It ought to have the check and balance of the Federal system by having the Secretary of the Commerce and Secretary of the Interior approve the plan before it's released. We think that could be changed by amendment also.

Finally, on the bass stamp, a question. I want to point out that in New York State, we commercial fisherman pay $100 for a commercial license. We were in favor of that. We don't mind paying another $5 for a bass stamp. Except, we'd like to find out who is going to allocate the money. That's a very big question. Because as you all know, there is a very big conflict going on in the east coast fisheries between recreational and commercial fisherman. If the allocation of that money is simply going to be allowed to be decided by lobby, then you know who is going to win. There are 10 million of them and 10 thousand of us. So we'd have to know, before we could support the bass stamp, just exactly how that allocation of money would be determined.

That does conclude my remarks. I'd be happy to answer any questions. Thank you.

[The prepared statement of Mr. Leo may be found at the end of the hearing.]

Mr. STUDDS. Thank you, sir.

It's obvious to the gentleman from New York that your district is in grave danger of being overrun by fish. I don't know if it's just the squid, or whether you're being assaulted by bass as well.

Mr. LEO. No. The bass are on their way. The bass will be there. The squid are there this week. The bass are coming.

Mr. STUDDS. Well, that's pretty awesome. One reason fisherman don't wear white, I would say.

Mr. HOCHBRUECKNER. Mr. Chairman, to protect our swimmers along our great beaches——

Mr. STUDDS. I think you need help.

Mr. HOCHBRUECKNER [continuing]. We should turn the commercial fisherman loose to rid the waters of some of these specimens.

Mr. STUDDS. No, you may need help. You may have to have some relocation to move you back from the shore, if these people are really being attacked.

If you've got Secretarial review of the striped bass management plan, you might as well ask Mr. Coates now just what the decision would be, given the likelihood that—they would never persuade you leave Massachusetts, would they? Next January? [Laughter.]

No. You look much too rational for that.

Mr. COATES. The cape is still a lovely place to live, as you know.

Mr. STUDDS. Anyone who can say that in January is a native.

I may be wrong, but I think virtually everyone—with the exception, obviously, of the folks from Long Island—is in agreement with respect to the major points here. Life is too short to get into too long an argument about whether or not there ought to be Secretarial review, to say nothing of what that means, or which Secretary. It's not one of the subjects that has most enlisted my attention this week. But I suppose it's something we'll have to address. With respect to the act, its purpose, its method of operating, and the need for its continuation, I sense that there is unanimity again, with the exception of the folks from Long Island who speak from their own very understandable perspective.

I gather there's some interest in a stamp, but lots of thoughts about how it might be pursued. We're interested in a variety of suggestions on that, especially if there are ideas. Mr. Coates, I gather you did express some for taking the mechanism of this act and thinking about extending it to other stocks. You mentioned scup and black bass?

Mr. COATES. Black sea bass.

Mr. STUDDS. Black sea bass. Do others come to mind?

Mr. COATES. Well, we have—I think Irwin could speak to this probably better than I—but there are about six species under planning development now at the ASMFC level. I suspect that some of them are going to be as equally contentious, with regard to potential State compliance, as striped bass was.

Mr. STUDDS. These are all migratory species——

Mr. COATES. Bluefish.

Mr. STUDDS [continuing]. That do not respect State boundaries.

Mr. COATES. Exactly.

Mr. STUDDS. Or Federal, for that matter.

Mr. COATES. Or Federal.

Mr. STUDDS. Or county. God help us all.

All of which are, to one degree or another, in some trouble?

Mr. COATES. I would say that most of the East Coast stocks of traditional species are in somewhat difficult situations right now.

Mr. STUDDS. Go back. Start naming them. What are the others besides the first two?

Mr. COATES. Well, I mentioned the first two. Sturgeon, we don't know much about. We're just trying to get started on Atlantic sturgeon. Up our way, there is not much known about them. We've just initiated the study through the University of Massachusetts. But that's the species that's under consideration. You meant Spanish mackerel, down south? The American eel is a species that is a catadromous fish, as opposed to these other critters that come, anadromous fish such as striped bass. It reverses the whole cycle. We

don't know much about those. They were a prized food fish and recreational fish, as well as an export market fish. River herring and shad; we have a plan—but again, implementation of that. Menhaden——

Mr. STUDDS. Did you say bluefish at one point?

Mr. COATES. Bluefish is under development. That's right now in a real flux because of disagreements as to the status of the stocks and the quality of the assessments.

Mr. STUDDS. Is there some reason to think those stocks are in trouble?

Mr. COATES. There's a strong feeling by some scientists that the blue fish is being fished at maximum level, if not slightly beyond. That's primarily targeted by recreational fishermen, as you know.

Mr. STUDDS. Or vice versa.

Mr. COATES. Speaking of swimming on the beaches——

Mr. STUDDS. That's a fish that absolutely insists on being caught. [Laughter.]

But there is some serious reason to worry about that one?

Mr. COATES. There is concern that they need to be managed. Mainly because of the fact that there is some assessments that indicate the stock is being fished at, what they call F-max. I'm sure the scientists could speak to that better than I, but I think it reflects a maximum level of utilization or exploitation.

Mr. STUDDS. What is their range? Do you know? Does anybody know?

Mr. COATES. Florida to Maine, essentially, or to the maritimes.

Mr. STUDDS. For the individual fish, or the species?

Mr. COATES. I think there are two stocks there. One that more confines its activities to, say, the Carolinas up through the maritimes. Then, there is a more southern component that might be off Florida and migrate up to a lesser degree to the north.

Mr. STUDDS. So the individual critters actually go from the middle Atlantic to the maritimes?

Mr. COATES. There have been some very interesting situations up in Nova Scotia in some of the traps, I guess, in terms of bluefish, in the recreational——

Mr. STUDDS. They must be quite tired by the time they get there. They're very impressive.

OK. That was what caught my fascination. I suppose that if there's even a remote possibility that we're going to be thinking seriously about in future years about extending the concept to other stocks that we might want to think carefully before we start having one stamp per stock.

Mr. COATES. That question was raised. We had a meeting of our Marine Fisheries Advisory Commission on Tuesday night. They endorsed, certainly, the reauthorization of the act and spoke favorably toward the amendment regarding a stamp. But that same point was raised. It would be nice to have a migratory fish stamp rather than a striped bass stamp, if such a thing were to develop.

Mr. STUDDS. To say nothing of the catadromous. Is it catadromous?

Mr. COATES. That's what I guess the eels are, catadromous.

Mr. STUDDS. Yes. We'd have to have some other kind of a stamp for them. [Laughter.]

Mr. COATES. They're migratory.

Mr. STUDDS. I'm going to recognize the gentleman from New York. But I'm going to ask that you try to stay within five minutes if you could. The day and the members are both expiring; and the witnesses.

The gentleman from New York.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

Mr. Alperin, with acceptable PCB levels in New York, at this point, could New York State, under the existing regulations of the Atlantic States Marine Fisheries Commission, open the striped bass fishery to the commercial fisherman? Or are they precluded from doing that?

Mr. ALPERIN. They can request it of the Striped Bass Board, who would have to discuss it. That's the procedure.

Mr. HOCHBRUECKNER. But they could not do it unless you approved?

Mr. ALPERIN. They would not do it unless the full Commission approved it. They would not change the plan.

Mr. HOCHBRUECKNER. Unless the full Commission approved it.

What would happen if they went on their own and decided to open it anyway? What power do you have?

Mr. ALPERIN. They would be affected by this law, the Federal moratorium. They would have to be reported. Then, the Secretaries would make a decision on whether they should suffer a moratorium.

Mr. HOCHBRUECKNER. OK.

I guess I have a question for all of you. In going over—as the Chairman had pointed out earlier—the chart, one recognizes that there are several States that have lower than the 33 inch size limit. The earlier answer, which I assume that you agree with, was that this is because those fish are not migratory. They stay local. Therefore, there's no problem about their depletion.

According to the Rhode Island University analysis, the New York harvest—back in 1985, using the lens test— indicated that in 1985, 82 percent of the harvest off of Long Island, in the spring, was Hudson stock; and 66 percent in the fall. Recognizing, certainly, the concern we all have for maintaining the Chesapeake stock, if we have such clear evidence that the fish that are available and accessible to Long Island happen to be from the Hudson—and the concern of the Commission is to protect the fish from the Chesapeake—why would there not be a movement to open the fishery to commercial fishermen who, in fact, have been shut out of it for the last several years?

Based on the proposal that I had made earlier—and I intend to take this up with the State. In fact, the Department of Environmental Conservation in New York has declared that the fish are, in fact, clean from a PCB point of view. The proposal is that they request the Commission to open the fishery for a season and allow the commercial fishermen to have access to this rather large abundance of Hudson fish. What do you think the Commission's view would be? What would your views be, Mr. Coates, Mr. Alperin, since you're, obviously, on the Commission? How would you respond to that if this was raised next week at your meeting?

Mr. COATES. Well, sir, it has been raised in the past. I just want to say that nobody is more sympathetic to the plight of the east Long Island fishermen than myself. I'm aware of the devastation of the brown tide and what it has done to their scallop crop, and the results of development and the ensuing contamination on the clam beds. We are aware of the situation with regard to striped bass. They are in a plight, as are other commercial fishermen up and down the coast. It's probably even worse than the situation on Cape Cod, where most of our problems have been relating to development.

But as far as accommodating such a request—I think Dr. Richards spoke to the scientific side of it, we don't really know in any given year what the mix is. The information that was generated in 1985 indicated that, yes, indeed, in that narrow snapshot, the majority of the fish were of Hudson river origin. I would like to think that the plan, when it's finally developed and revised, could accommodate that kind of flexibility. We don't, unfortunately, know what each specific river system yields in terms of production. We don't know what that interrelationship is every year.

I think that Mr. Leo spoke about the unprecedented inshore migration of squid this year. I don't believe any of the scientists have offered any predictions about squid abundance because the last three years' predictions were totally off what they expected. I think it's a function of the fact that in any given year you're going to get a changing situation.

Traditionally, the Hudson River stock has contributed, up in Massachusetts, about 10 percent of the fish in any given year, when the Chesapeake stock was at its most robust. This indicates that the Chesapeake stock is, basically what has driven the system traditionally. It is what we've placed our basket of eggs on. We're trying to get that Chesapeake stock restored, recognizing the impact it has, not only on the New York fishermen, but the fishermen in Virginia who claim that the James River has an unprecedented abundance of striped bass. Other commercial fishermen, the Maryland Water Men, for example, are raising increasing concern about the fact that their moratorium has produced a situation down there where the Chesapeake Bay is full of striped bass.

What we need is a good spawning. That gets us out of this Amendment 3, this extreme restoration. It gets us into a mode where we can be more flexible, where we can accommodate. Whether we can get down to the size limit you proposed is a difficult thing. Of course, that is driven by the fact we have another problem to deal with, and that is coastal contamination. The insidiousness of PCB's, and the paradox that you drew—an ocean full of striped bass that are being eaten by individuals, by households of recreational fishermen—raised some serious concerns as far as I'm concerned. I think that's something that we have to address down the road.

Mr. LEO. You can rest assured. The State has done a very thorough test on PCB's. Those fish are clean between the sizes of 18 inches and 30 inches on the east end of Long Island.

But I do want to comment that if the fish we see in the northeast range of striped bass fishery are not from the Hudson, then they have to be from the Chesapeake. There are tens and tens of millions of them.

Mr. COATES. To that, I believe that's true. The abundance of 1982 year class fish is—I think Dr. Rago, or Dr. Richards can speak to that—more abundant now than the gigantic 1970 year class was, six years later, 1976. There's more Chesapeake bass swimming around right now, that year class, than probably most of us can recall because they haven't been fished. They're intermingling with this very robust Hudson River stock. But to the degree that intermingling is taking place, we don't know.

We have to protect the Chesapeake stock. That's our obligation. As a result, we're having an undue impact on the Hudson stock and, of course, compounded by the insidious problem of the PCB's which generally creates a higher body burden with a larger fish. That's a problem we didn't anticipate. Three other States are closed because of PCB closures, not because of harvesting restrictions. They would love to go commercial fishing in Rhode Island, recognizing that some of the larger size fish are gear selective, or the smaller size. That creates a problem for the traditional gear types, the haul-seiners in New York, and the trap fishermen in Rhode Island. They're precluded from harvesting partly because the smaller fish are more vulnerable to traps and haul-seines.

Mr. HOCHBRUECKNER. We certainly agree with the importance of protecting the Chesapeake fish. The unfortunate thing is that as part of that protection, you've also managed to protect a lot of fishermen out of business. That's a major concern that we have, especially when the Hudson River stock is, in fact, clean and in such large abundance.

So our concern is—obviously you subscribe to the philosophy that, in essence, a local fish could have a lower limit size because of the limits that, in fact, exist in Washington, DC, Virginia, and, in fact, the Chesapeake itself. It seems to me that you subscribe to the philosophy that if it is a local fish, it's not a Chesapeake fish. Therefore, you could support a smaller limit size.

Therefore, I would assume if New York came in with a proposal for a one season—based on testing to show that the stock being caught, in fact, was from the Hudson and not the Chesapeake—you would be amenable to considering such a proposal.

Mr. COATES. I think the way it would be amenable, the way it might be supported, is for New York to consider how they define their region. To draw a parallel to that, you look at the Chesapeake Bay. The fish spawn in the rivers in Chesapeake Bay. Then, they spend their juvenile stages in the Bay itself. That's a so-called nursery area.

I don't think a parallel definition has been drawn in the New York, Hudson River area, Long Island Sound area. In other words, the Hudson River is considered the spawning river, but there is no analogous or parallel nursery area. That might be a way to—if, in fact, it could be proven that these fish are actually Hudson River fish and not Chesapeake fish, and as I said, that one snapshot (previous stock identity study), is satisfactory to the scientists. That's why I'm a little nervous about a 1 year window. Because everybody is going to, then, want a 1 year window, or a 6 month window, or something. We're going to see this whole effort become endangered as a result of, unfortunately, short-term political considerations.

I don't think it's appropriate, too, to blame the woes of the commercial fishermen on just what's happened with regard to striped bass. There's a lot of other problems, as you know, that have impacted these gentlemen.

Mr. HOCHBRUECKNER. Well, certainly, the loss of the scallops have not helped. Would anyone else care to comment on my proposal?

Mr. ALPERIN. I would comment to the effect that we don't know what New York State officials will propose when the Striped Bass Board meets on the 10th.

Mr. HOCHBRUECKNER. Well, we're working on that.

Mr. ALPERIN. That's fine. That's your point of view. But they will have to convince the rest of these Striped Bass Board members and the interstate jurisdictional program members. If they do, if they succeed, they'll have their way. If they don't, they won't have their way.

I'm assuming that if New York State succeeds, then Rhode Island will ask for similar positions. So will New Jersey, and so will Connecticut. I envision the plan going to pot. That's what I see of it right now.

Mr. HOCHBRUECKNER. Recognize there's another player in the game, which is the PCB levels.

Mr. ALPERIN. Well, I think the PCB level was important in preventing commercial fishing in the Hudson River, which may have something to do with the large size of the stock. But no one has been able to prove that one way or another. There was not fishing there. The recreational fishermen in the Hudson River, we don't really have a recording of how many fish they catch, but it's not many. The fact that New York State has a provision to allow recreational fishermen to take PCB contaminated fish as long as they just eat them themselves, with a warning from their health department, that suffices to keep the Commission from interfering. We wouldn't interfere with that.

If New Jersey did the same thing, and Connecticut did the same thing—they mostly depend on the PCB studies that are made in New York. I'm not aware that any of the other States are currently testing for PCB's. But whatever New York does, they'll follow.

Mr. HOCHBRUECKNER. Any other comments?

Thank you, Mr. Chairman.

Mr. STUDDS. I don't see why you have difficulty in agreeing with the gentlemen with the clear New York accent, like Mr. Alperin. Demonstrably, he's a native of New York.

Mr. ALPERIN. I also worked for six years in Massachusetts.

Mr. STUDDS. I understand. [Laughter.]

Let me just remind that—the folks here don't need a reminder—the history of this statute is one of compromise between two very, very different positions. It was fought out around this very committee dais. How many years ago? Four years ago. There were members who introduced bills that would have declared an immediate moratorium on the striped bass fishery throughout the entire range of the stock, period. And there were members who would have us do absolutely nothing, which is one of the things we do best, as you know. What emerged, and what is now the subject of debate four years later, is—I will refrain, others characterized it—

essentially a compromise between those two extreme positions at the time. It appears from most of the testimony, as far as I can see, to have worked reasonably well.

I want to thank everybody. I, coincidentally, have meetings in six of my communities this weekend, one of which is Cuttyhunk. I remember very clearly the times we managed to get in there by seaplane. I usually get a lecture from irate fishermen. No one knows more about fish than fishermen, by definition. Scientists are singularly irrelevant. They all have these wordy degrees. Fish don't pay any attention to them, and certainly not to bureaucrats, or legislators.

I was lectured on the catch and the appearance of the fish off Cuttyhunk Island going back to 1912 by someone who had observed it that year and every year since. He asked if I cared to match my experience against his. I said, "of course not." They seem to have their own theories about these fish. They come and they go regardless of what we do, or what we don't do.

That may or may not be the case. But given the imperfection of our knowledge, and given the demonstrable decline of the stocks, caution seems to be the better part of wisdom, I think. But we'll see. We'll work with the gentlemen as best we can.

Thank you all for your patience. There was no reason to anticipate your being confined here for this amount of time. We apologize for that. Those of you who have the great good fortune of being from somewhere other than Washington, DC, we urge you to leave as fast as possible. [Laughter.]

Thank you very much.

The subcommittee stands adjourned.

[The prepared statement of Mr. Hochbrueckner can be found on following page.]

[Whereupon, at 5 p.m., the subcommittee was adjourned.]

[The following was received for the record:]

Statement of
Congressman George J. Hochbrueckner

in the

Subcommittee on Fisheries and Wildlife Conservation
and the Environment
Committee on Merchant Marine and Fisheries
House of Representatives
May 5, 1988

Mr. Chairman, members of the subcommittee, as we review the implementation of the Atlantic Striped Bass Conservation Act this afternoon I want to raise some concerns I have as the representative of eastern Long Island. I also want to recommend a new program which could solve a serious problem in my District.

Long Island has a very old tradition of commercial striped bass fishing. There are fishermen on eastern Long Island whose families have made their living catching striped bass since Colonial times, in the early 1600s. For the past several years, however, these fishermen have been out of business. Because they are no longer permitted to catch and market striped bass, they have had to take jobs driving school buses, working as janitors, and doing other work for which they were not trained or inclined.

The prohibition on commercial striped bass fishing in my District stems from both federal and state policies. In New York State, we have had a problem in the Hudson River with contamination

by polychlorinated biphenals (PCBs). Although PCB contamination is gradually disappearing, it has forced my state to close the striped bass fishery each year since 1986. In 1988, New York extended the ban on commercial striped bass fishing because stripers in certain areas again tested above the 2 parts-per-million (ppm) PCB level. On eastern Long Island, however, the bass tested "clean" this year; that is, below 2 ppm PCBs, which in essence means that fish swimming off Long Island are safe to eat.

Setting aside the PCB problem for a moment, from the standpoint of federal policy, the 33 inch minimum size requirement imposed by the Atlantic States Marine Fisheries Commission (ASMFC) for New York striped bass seems unfair for the commercial fisherman. As any professional fisherman will tell you, a striper 33 inches or longer is not a desirable fish to bring to market. To make a living, fishermen need to be able to catch the "school sized" bass, between 16 and 30 inches. Thus, the size dictates of the Commission, together with the state PCB problem, have made Long Island striped bass commercial fishermen an endangered species and approaching extinction.

From the Long Island commercial fisherman's perspective, the Commission's dictates seem especially unfair because the Atlantic Striped Bass Conservation Act was intended to protect Chesapeake Bay stocks, not Hudson River stocks. The Commission does not consider the fact that between 68 and 80 percent of the striped bass off eastern Long Island are Hudson River bass. This fact was proved by tests done at the University of Rhode Island. As I understand it, by examining the lens of a fish's eye, scientists can determine where the striped bass originated.

It seems to me that the state and federal governments need to work together to find a reasonable compromise that can restore the time-honored commercial fishing industry on eastern Long Island. At the same time, of course, we must protect the overall Atlantic striped bass stocks and ensure that the fish going to market are safe to eat. I believe I have a workable approach to offer.

Today I ask the support of the commission and of the members of this committee for a limited, partial change in the size limits imposed by the ASMFC for Eastern Long Island, where the fishery has tested clean. I do not expect the ASMFC to drop the 33 inch rule altogether. However, I ask that the Commission consider an agreement with the New York Department of Environmental Conservation (DEC) wherein, if New York permits an opening of the area of the fishery that tests clean for PCBs -- an area which from all accounts I have seen is teeming with Hudson River stripers -- the ASMFC will permit local fishermen to catch striped bass smaller that 33 inches.

An important point to consider is that New York State has in place a very effective "yellow tag" program for fish. This program will enable us to tell which striped bass are from the areas off Long Island that have tested clean for PCBs.

Now, this agreement between the Commission and New York State does not have to be permanent. We can try it for just this season and see how it works. Certainly, the ASMFC and the New York Department of Environmental Conservation will closely monitor the

effects of the activity on striped bass stocks. I have discussed this proposal with the state DEC and I am confident that it would not present problems.

Recognize that we are talking about a small number of fishermen on Long Island's East End using old fashioned fishing techniques. If we can put into place a limited, carefully monitored program allowing for a partial opening of the Long Island fishery for school size striped bass, we can put fishermen in my District back to work and help prevent an old American tradition and way of life from disappearing.

Thank you, Mr. Chairman.

100TH CONGRESS
2D SESSION

H. R. 4124

To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1988

Mr. STUDDS (for himself, Mr. DAVIS of Michigan, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, and 1991,".

SEC. 2. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "1988." and inserting in lieu thereof "1991.".

SEC. 3. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "the fiscal year ending September 30, 1980," and all that follows through "September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1988, 1989, 1990, and 1991".

○

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 18 1988

Honorable Walter B. Jones
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your request for our views on H.R. 4124, a bill "To authorize Appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes."

We support reauthorization of the Atlantic Striped Bass Conservation Act for 2 years, but believe extension of the funding authorization for the striped bass study under the Anadromous Fish Conservation Act is unnecessary.

H.R. 4124 would reauthorize appropriations to carry out the Atlantic Striped Bass Conservation Act, and extend the Act's effective period, for 3 years. It would also reauthorize appropriations for the striped bass study authorized under section 7(d) of the Anadromous Fish Conservation Act.

Atlantic Striped Bass Conservation Act

The Conservation Act, originally enacted in 1984 and extended in 1986, was a response to a consensus among fishery scientists and agencies that overharvest was a principal cause for the sharp decline of Atlantic coast striped bass stocks beginning in the 1970s. That conclusion was based primarily on research conducted under the striped bass study.

The Conservation Act involves a unique approach for the cooperative management of interjurisdictional fishery resources. Consistent with accepted principles of federalism in fisheries management and with limited Federal involvement, the Conservation Act facilitates fulfillment by the 14 management jurisdictions of their acknowledged fishery resource stewardship responsibilities. Recognizing that these jurisdictions are subject to disparate and pervasive pressures to maximize fisheries in their waters, the Conservation Act provides an essential incentive for them to place the long-term viability of these stocks ahead of local, short-term interests. This is accomplished by

requiring the Secretaries of Commerce and the Interior to impose a moratorium on striped bass fishing in any jurisdiction if they determine, after notice from the Atlantic States Marine Fisheries Commission, that such jurisdictions are not in compliance with a fishery management plan developed and approved by the Commission.

The Conservation Act represents an unqualified success story. Full implementation of the Commission's amended plan is largely attributable to the consensus and cooperative spirit engendered by the Conservation Act. Implementation of that Act has been effective in halting and beginning to reverse the decline of Atlantic migratory striped bass stocks. The Conservation Act has provided the Commission with the support needed to broaden the scope of existing management of Atlantic coast striped bass, including general compliance with the existing interstate striped bass management plan by the 14 jurisdictions involved.

The authority designed to ensure that the Commission's striped bass management plan is implemented will expire after September 30, 1988. Without this authority, the substantial progress since 1984 in reversing the decline of Atlantic coastal striped bass stocks may be lost. To avoid this outcome, the Administration supports a two-year extension and reauthorization of the Act.

A two-year period would provide a necessary transition to allow completion of the Commission's new fishery management plan, as well as ensuring that the plan is thoroughly reviewed before being approved and implemented. This period would also facilitate an orderly and effective transition to the new cooperative fishery management regime envisioned by the Commission.

To avoid potential Constitutional issues with the reauthorization, the Conservation Act should provide for Congressional acceptance of any new fishery management plan developed. The Commission's new plan is still under development and may not be completed prior to expiration of the Conservation Act. Therefore, insufficient time would remain this year for reaching a consensus among the States that the new plan would adequately protect Atlantic coastal striped bass stocks. This consensus is important in establishing the new plan as the technical basis for subsequent application of the Conservation Act.

Striped Bass Study

Appropriations authority for the striped bass study authorized originally in 1979, will expire at the end of 1988. The Administration does not support reauthorization.

With the stock size increasing, we believe the States should assume this responsibility. To the extend that Federal studies are required, they may be completed under other authorities.

After 8 years of concentrated research, it is now clear that the decline of Atlantic coastal migratory stocks of striped bass is a more complex and difficult problem than originally perceived. However, substantial new information and insight about these stocks have been gained from the cooperative studies conducted under authority of the 1979 provisions.

One major conclusion initially reached in late 1983 was that there had been failure of reproduction of these stocks due, in part, to reduced population levels. Although other factors were recognized as possibly contributing to the decline, it was concluded that the decline could be addressed most quickly by substantially reducing striped bass fishing mortality. The 1983 annual report recommended such action, and as a direct result, the Commission amended its plan in 1984 to require an additional 55 percent reduction in fishing mortality. Based on that evidence, the Commission also amended its plan a third time in 1985 to ensure very limited fishing mortality on the 1982 and subsequent year classes until 95 percent of the females had spawned at least once. The conclusions and recommendations of the 1983 annual report were also instrumental in the enactment and subsequent reauthorization of the Conservation Act. Another result is growing optimism that substantial striped bass fishing opportunities will once again be available throughout this coastal region.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Susan Recce

Susan Recce
Acting Assistant Secretary

FEDERAL MIGRATORY STRIPED BASS CONSERVATION STAMP
Staff Proposal
April 27, 1988

Introduction

As striped bass stocks begin to recover, management efforts will gradually shift from short-term "emergency" restoration to long-term conservation as managers seek to maintain the stocks at acceptable levels and to prevent declines similar to those of the 1970's. Research will be needed to provide managers with the information to make scientifically sound management decisions.

The majority staff of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment is examining the merits of establishing a Federal Migratory Striped Bass Conservation Stamp in those states covered by the Atlantic States Marine Fisheries Commission's Striped Bass Management Plan. The objective of this program would be to provide a continual source of funding for the states, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to continue and strengthen striped bass research, monitoring, and enforcement efforts.

The following outline examines certain key elements of such a program. Its purpose is to generate discussion on the merits of the basic proposal and to solicit comments and recommendations on specific issues. The proposal does not represent the position of the Subcommittee or any of its Members.

General Provisions

- All persons 18 years of age and older would be required to have a Migratory Striped Bass Conservation Stamp to possess a striped bass. Possession of striped bass would, of course, otherwise have to comply with existing Federal and state laws.

- The Secretary of Commerce would administer the program, including both distributing the revenues from the sale of stamps and providing the stamps to each of the states.

- The states would distribute the stamps throughout their jurisdiction and be allowed to add a small handling fee ($.25 - .50) to the price of a stamp.

- The stamp would be attached to the state's saltwater licence. In states that do not have this license, the stamp would be attached to a special certificate provided by NMFS when the stamps are distributed.

- The revenues generated from the sale of stamps would be dedicated only to striped bass research, monitoring, and enforcement. Other uses of these funds would be prohibited.

- Based on NMFS's estimates of striped bass fishermen and a $5.00 fee for a stamp, $5-6 million would be generated annually from the sale of stamps. Fees might range from $2-5, and could accompany a stamp that is either annual or biennial.

Possible Ways to Establish the Stamp Program

1. Amend the Act to immediately establish the stamp program.

2. Amend the Act to require a stamp program that would go into effect sometime in the near future (i.e. 3 years).

3. Amend the Act to require the ASMFC or NMFS to study the likely outcomes of such a program and to a report to Congress within 1-2 years.

4. Establish the stamp program to coincide with the adoption of the ASMFC's new Striped Bass Plan.

Distributing the Revenues

Several suggestions have been made about how the funds collected from the sale of stamps would be distributed. In general, the following factors should to be considered: 1) The need for a continual source of funding for striped bass research, monitoring, and enforcement, particularly at the state level; 2) the need for each state to receive a guaranteed minimum level of funding to cover their administration and enforcement costs; 3) the need for those states that sell many stamps to benefit from those sales; 4) the need to continue the NMFS's and U.S. Fish and Wildlife Service's role in supporting striped bass programs currently funded under the Emergency Striped Bass Study.

All of the revenues from the sale of stamps would be deposited into a special fund dedicated to striped bass grants. The following possibilities for distributing the revenues may deserve further examination.

- Initial allocations would be distributed to the following:
  - 1) each state would receive a minimum payment for its administration and enforcement costs (approx. 10%);
  - 2) NMFS and U.S. Fish and Wildlife Service would receive funds to continue research, enforcement, and administrative activities (approx. 10%).

- The remainder of the funds (approx. 80%) would be distributed by:
  - 1) A Federal grants program to educational and research institutions to finance activities similar to those conducted under the Emergency Study; and
  - 2) A formula grants program to states based on the number of striped bass stamps sold by an individual state and the number of licensed saltwater fishermen.

These programs would be administered by the NMFS for striped bass research efforts. There would be a cap on the amount any one state may receive.

TESTIMONY OF
JAMES E. DOUGLAS, JR.
DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

MAY 5, 1988

Mr. Chairman and Members of the Subcommittee:

My name is James E. Douglas, Jr., and I am the Deputy Assistant Administrator for Fisheries of the Department of Commerce's National Oceanic and Atmospheric Administration.

I am pleased to present the views of the Department of Commerce on H.R. 4124, a bill to reauthorize the Atlantic Striped Bass Conservation Act and for other purposes.

The Atlantic Striped Bass Conservation Act, which is due to expire on September 30, 1988, authorizes the Secretaries of the Interior and Commerce to impose a moratorium on fishing for striped bass in any State from Maine through North Carolina if it has not adopted, or was inadequately enforcing, conservation measures contained in the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fisheries Management Plan for the Striped Bass and all amendments thereto related to fishing.

H.R. 4124 would reauthorize the Atlantic Striped Bass Conservation Act through fiscal year 1991. The bill also would reauthorize section 7 of the Anadromous Fish Conservation Act, to provide funding through fiscal year 1991 for the Emergency Striped Bass Study.

Since its passage in 1984, the Atlantic Striped Bass Conservation Act has provided the necessary impetus and encouragement to the States to implement the management provisions of the Interstate Fisheries Management Plan for Striped Bass. It identified the ASMFC as the organization to determine State compliance with the Plan and to monitor and assess the enforcement activities of the States in implementing its management provisions.

The ASMFC notified us in July 1985 that the States were in full compliance with the Plan. However, in December 1986, ASMFC reported that New Jersey and the District of Columbia were not in compliance, because they did not have management measures in place deemed adequate to implement the provisions of the Plan.

In cooperation with the U.S. Fish and Wildlife Service, we immediately initiated steps necessary to impose a moratorium on the striped bass fishing in the waters of New Jersey and the District of Columbia. These two jurisdictions were given until April 2, 1987, to implement management measures which would bring them into compliance, or a moratorium would be imposed. In late March 1987, additional striped bass regulations were adopted by New Jersey and the District of Columbia which ASMFC determined

were sufficient to put them in compliance with the Plan. Thus, both jurisdictions averted the imposition of a moratorium and the effectiveness of the Act was demonstrated. In January 1988, the ASMFC reported that all States, the Potomac River Fisheries Commission, and the District of Columbia were in full compliance with the Plan.

Evidence indicates that excessively high fishing mortality was one of the major causes of the decline of the striped bass population in the late 1970's. Adoption by the States of the suggested 33-inch minimum size limit as a means of meeting the requirements of Amendment 3 to the Striped Bass Plan, and other restrictions such as the Maryland moratorium, appear to have brought about a significant decrease in fishing mortality and an evident increase in stock size. We believe the Act was responsible, in large part, for these occurrences. We also believe that reauthorization of the Act is necessary to allow for continued recovery of the striped bass stocks, particularly the Chesapeake stock in Maryland waters.

We do not favor any additional Federal Government role in the management of striped bass beyond that specified in the Act. We believe the States, through the ASMFC, should be responsible for managing striped bass, including approving and implementing the management plans and amendments. In response to the evident increase in stock size, the ASMFC is developing a new management plan.

4

The Emergency Striped Bass Study funds were used by the National Marine Fisheries Service (NMFS) primarily for projects to determine the status of the stocks of striped bass. These projects included studies of fishing mortality, stock identification, monitoring young of the year production, and characterizing age, size, and sex composition of the commercial landings. Recently, we began funding an adult stock monitoring program and a coastwide tagging program.

Most projects funded by NMFS were carried out by State fisheries agencies under a grant-in-aid program. We have coordinated our projects with those of the U.S. Fish and Wildlife Service.

We do not support reauthorization of Section 4, which would extend Section 7 of the Anadromous Fish Conservation Act. We believe the purpose of the emergency study has been accomplished with the documentation of the problems and contributing factors which led to the decline of striped bass. The research needed to support State management efforts should be funded by the States, and not by the Federal Government. However, we will continue to work with the States to complement their efforts wherever practicable.

Mr. Chairman, in your letter of invitation you indicated the Subcommittee will consider amending the Act to provide for Secretarial review of future amendments to the Striped Bass Plan or to the new plan under development. It is our understanding that

this legislative amendment will be designed to eliminate any questions regarding the constitutionality of the Act. While we would prefer to withhold our views on such legislation until we have had a chance to review precise language, the Administration generally recommends that the Act be amended to require Congressional approval of any new plan developed by the ASMFC to avoid any possible Constitutional questions.

We note the Subcommittee is considering legislation to impose user fees through the sale of a Federal Migratory Striped Bass Conservation Stamp. As you well know, the Administration is on record as favoring user fees to pay for essential programs that benefit a particular user group. We would be pleased to work with the Subcommittee staff to further refine the draft proposals made in the attachments to your letter.

This concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you or any Member of your Subcommittee might have.

STATEMENT OF GARY EDWARDS, ASSISTANT DIRECTOR FOR FISHERIES, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, CONCERNING H.R. 4124, A BILL TO EXTEND THE AUTHORIZATION OF THE ATLANTIC STRIPED BASS CONSERVATION ACT AND THE AUTHORIZATION OF APPROPRIATIONS FOR THE STRIPED BASS STUDY ACT.

MAY 5, 1988

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Mr. Chairman, I am pleased to appear before you today to discuss reauthorization of two statutes that have been central to cooperative efforts with 12 Northeastern and Mid-Atlantic States, the District of Columbia, and the Potomac River Fisheries Commission to restore Atlantic coastal migratory stocks of striped bass. We support reauthorization of the Atlantic Striped Bass Conservation Act for 2 years, but believe extension of the funding authorization for the Striped Bass Study Act is unnecessary. Although focusing on the same stocks of striped bass, these statutes deal with different issues and Service activities. Hence, I will address each Act individually.

Atlantic Striped Bass Conservation Act

The Conservation Act, originally enacted in 1984 and extended in 1986, was a response to a consensus among fishery scientists and agencies that overharvest was a principal cause for the sharp decline of Atlantic coast striped bass stocks beginning in the 1970s. That conclusion was based primarily on research conducted under the Study Act.

The Conservation Act involves a unique approach for the cooperative management of interjurisdictional fishery resources. Consistent with accepted principles of federalism in fisheries management and with limited Federal involvement, the Conservation Act facilitates fulfillment by the 14 management jurisdictions of their acknowledged fishery resource stewardship responsibilities. Recognizing

that these jurisdictions are subject to disparate and pervasive pressures to maximize fisheries in their waters, the Conservation Act provides an essential incentive for them to place the long-term viability of these stocks ahead of local, short-term interests. This is accomplished by requiring the Secretaries of Commerce and the Interior to impose a moratorium on striped bass fishing in any jurisdiction if they determine, after notice from the Atlantic States Marine Fisheries Commission, that such jurisdictions are not in compliance with a fishery management plan developed and approved by the Commission.

The Conservation Act represents an unqualified success story. Full implementation of the Commission's amended plan is largely attributable to the consensus and cooperative spirit engendered by the Conservation Act. Implementation of that Act has been effective in halting and beginning to reverse the decline of Atlantic migratory striped bass stocks. The Conservation Act has provided the Commission with the support needed to broaden the scope of existing management of Atlantic coast striped bass, including general compliance with the existing interstate striped bass management plan by the 14 jurisdictions involved.

The authority designed to ensure that the Commission's striped bass management plan is implemented will expire after September 30, 1988. Without this authority, the substantial progress since 1984 in reversing the decline of Atlantic coastal striped bass stocks may be lost. To avoid this outcome, the Administration supports a 2-year extension and reauthorization of the Act.

A 2-year period would provide a necessary transition to allow completion of the Commission's new fishery management plan, as well as ensuring that the plan is thoroughly reviewed before being approved and implemented. This period would also facilitate an orderly and effective transition to the new cooperative fishery management regime envisioned by the Commission.

To avoid potential Constitutional issues with the reauthorization, the Conservation Act should provide for congressional acceptance of any new fishery management plan developed. The Commission's new plan is still under development and may not be completed prior to expiration of the Conservation Act. Therefore, insufficient time would remain this year for reaching a consensus among the States that the new plan would adequately protect Atlantic coastal striped bass stocks. This consensus is important in establishing the new plan as the technical basis for subsequent application of the Conservation Act.

Striped Bass Study Act

The appropriations authority for the Striped Bass Study Act, originally enacted in 1979, will expire at the end of Fiscal Year 1988. The Administration does not support reauthorization. With the the stock size increasing, we believe the States should assume this responsibility. To the extent that Federal studies are required, they may be completed under other authorities.

After 8 years of concentrated research, it is now clear that the decline of Atlantic coastal migratory stocks of striped bass is a more complex and difficult problem than originally perceived. However, substantial new information and insight about these stocks have been gained from the cooperative studies conducted under authority of the Study Act.

One major conclusion initially reached in late 1983 was that there had been a failure of reproduction of these stocks due, in part, to reduced population levels. Although other factors were recognized as possibly contributing to the decline, it was concluded that the decline could be addressed most quickly by substantially reducing striped bass fishing mortality. The 1983 annual report recommended such action, and as a direct result, the Commission amended

its plan in 1984 to require an additional 55 percent reduction in fishing mortality. Based on that evidence, the Commission also amended its plan a third time in 1985 to ensure very limited fishing mortality on the 1982 and subsequent year classes until 95 percent of the females had spawned at least once. The conclusions and recommendations of the 1983 annual report were also instrumental in the enactment and subsequent reauthorization of the Conservation Act. Another result is growing optimism that substantial striped bass fishing opportunities will once again be available throughout this coastal region.

If harvest restrictions can be maintained for several more years, a substantial increase in spawning may be realized from the large striped bass broodstock that now exists due to the sacrifices of fishermen from Maine to North Carolina. This increased spawning potential provides the opportunity to determine whether the population decline was due to overharvest or to reproductive failure caused by some alternative factor, principally high levels of contaminants in spawning areas.

Mr. Chairman, this concludes my prepared testimony. I would be pleased to respond to any questions you or other members of the Subcommittee may have.

Statement of
PHILIP G. COATES, DIRECTOR, MASSACHUSETTS DIVISION OF MARINE FISHERIES
AND CHAIRMAN, ATLANTIC STATES MARINE FISHERIES COMMISSION
on
H.R. 4124, to reauthorize the Atlantic Striped
Bass Conservation Act
before the
Subcommittee on Fisheries and Wildlife Conservation
and the Environment
Committee on Merchant Marine and Fisheries
U.S. House of Representatives
May 5, 1988

Mr. Chairman, Members of the Subcommittee, Ladies and Gentlemen, I'm Phil Coates, Director of the Massachusetts Division of Marine Fisheries and Chairman of the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board. I'm pleased to offer the Commonwealth's strong support in favor of reauthorization of HR 4124, the Atlantic Striped Bass Conservation Act. It's also a pleasure, Mr. Chairman, to sit before you today knowing that, unlike the 1986 reauthorization of the Act, ASMFC strongly shares Massachusetts' support for reauthorization.

Speaking briefly as Chairman of the Striped Bass Management Board, the Board has two major issues to address, one immediate and one longterm. Of immediate concern is the need to address whether current regulations will protect the 82 year class and subsequent year classes of female Chesapeake Bass until 95% of the females have the opportunity to spawn given the latest revision of the striped bass size/maturity schedule. Thanks to Emergency Striped Bass Study funding, the states have determined that earlier size at maturity schedules may not reflect the current Cheasapeake striper population. Essentially the fish fully mature two years later than was anticipated. This raises the question of whether the current 33" size limit will protect 95% of 82 year-class females. I can assure you, Mr. Chairman, that the Board and Commission will deal responsibly with this issue at their meeting next week.

Our longer term issue is revision of the Interstate Striped Bass FMP. Fortunately the Board, guided by the Scientific and Statistics Committee and Plan Writer, has made significant progress in addressing the transition of managing striped bass as a restored and harvestable stock as opposed to a depleted species in need of restoration. We hope to have a revised plan available for ASMFC approval at its October 88 annual meeting in New Jersey. Let me quickly allay any concerns that the revised FMP might provide unrestricted harvest of striped bass. On the contrary, our goals are to perpetuate strong stocks, optimize harvest and allocate fairly. I assure you that ASMFC intends to make a most conservative transition from the existing plan as amended to harvesting under the revised FMP. Quite frankly the old days of relatively unrestrictive harvest are gone forever; not only for striped bass, Mr. Chairman, but also for most traditional species. May I respectfully suggest that the sooner Congress, fishery managers, user groups and the public address this reality, the better.

I am aware of several suggested amendments to the proposed Reauthorization including stronger federal oversight over the FMP currently under revision. Rather than Secretarial review of the FMP, may I suggest that the current state compliance mechanism in the Act relating to Amendment III be made flexible to accommodate future FMP amendments or revisions. At this point in the evolution of interstate management of coastal migratory fish, I feel that the Secretarial compliance determination and the authority to impose fishing moratoriums are adequate federal controls. I'll speak of the federal role in future interstate fisheries management briefly.

Another strongly rumored amendment relates to a possible striped bass stamp. Quite frankly, of all the proposed user fees, funding mechanisms, and various state and federal licenses, etc., a stamp appears to be one of the most selective and efficient ways of generating sufficient funds to pay for striped bass management needs, particularly with the likely near future elimination of Emergency Striped Bass Study funding and Anadromous Fish Act funding. A minimally administered federal stamp issued by the National Marine Fisheries Service with collected earmarked funds being redistributed to NMFS, FWS and ASMFC should pay for future monitoring, management, research and enforcement needs associated with the revised "F" (fishing mortality) based interstate FMP.

Lastly, Mr. Chairman, before concluding, and while we are discussing striped bass planning and funding, may I again, as in 1986, make a not so subtle plea for generic interstate fisheries management, planning and funding. I would like to again respectfully request that you and the Subcommittee, in reviewing the past and present success of striped bass research and management under the Atlantic Striped Bass Conservation Act, consider the application of this basic procedure to all interstate migratory finfish on the Atlantic Coast. ASMFC is currently working on FMP's for several species, including bluefish, red drum, spotted sea trout, and spot and croaker. Although FMP's for such species as menhaden, fluke, shad and river herring have been developed and approved by ASMFC, the degree of state implemention is weak in comparison to striped bass. Important species like black sea bass and scup have yet to be addressed in an FMP. The need for comprehensive interstate management is immediate and all the elements are in place short of enabling legislation to put this program together. We are talking about a relatively simple management program funded by a combination of migratory fish stamp revenues and the Interjurisdictional Act appropriation incorporating state accountability through employment of the same federal oversight and state compliance mechanism as is in the Striped Bass Act. The need is immediate, Mr. Chairman, and I feel such an interstate fishery management planning process can be dovetailed with a minimally modified Fishery Conservation and Management Act to cover interjurisdictional species found in the E E Z.

Thank you again for allowing me the opportunity to testify on the Striped Bass Act Reauthorization. I hope you will strongly consider my brief remarks about the need for a funded and accountable interstate fishery management program.

Sport Fishing Institute

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STATEMENT OF

NORVILLE S. PROSSER

SPORT FISHING INSTITUTE

BEFORE THE

HOUSE SUBCOMMITTEE ON

FISHERIES AND WILDLIFE CONSERVATION

AND THE ENVIRONMENT

REGARDING

H.R. 4124

ATLANTIC STRIPED BASS CONSERVATION ACT

MAY 5, 1988

The National Non-Profit Fish Conservation Organization

Mr. Chairman and members of the Subcommittee, my name is Norville Prosser and I am the Vice President of the Sport Fishing Institute (SFI). On behalf on SFI, I want to thank the Subcommittee for the opportunity to appear and present our views regard H.R. 4124, a bill to reauthorize appropriations to carry out the Atlantic Striped Bass Conservation Act. SFI is a non-profit, tax-exempt, broadly-based conservation organization, staffed entirely by fisheries scientists and economists, devoted to the protection, enhancement, and wise utilization of America's freshwater and marine aquatic resources, especially the fish populations and their essential habitats. Our principle objective, be means of a program of ecological research, conservation education, and professional service, is to help develop and promote optimum opportunity of Americans to engage in healthful and rewarding recreational fishing. Our financial support comes from a broad range of sport fishing industry members and from thousands of anglers and other concerned citizens.

The Atlantic Striped Bass Conservation Act forged a delicate balance between the states' long-held purview to manage territorial sea fisheries, in this case through the Atlantic States Marine Fisheries Commission (ASMFC), with a federal forcing mechanism that did not preempt state management authority, but did require all affected states to adopt consistency of regulatory enforcement. To date, the unique partnership forged by the Act can only be characterized as a success story of truly remarkable proportions.

The enabling third amendment to the ASMFC'S Striped Bass Plan, designed to prevent directed fishing mortality on the 1982 and subsequent year classes of striped bass until 95 percent of the females have an opportunity to spawn at least once, has resulted in a dramatic improvement in the potential reproduction and recruitment to the fishery. The necessary restrictions to

the commercial and recreational participants and the dependent industries have resulted in short-term, but significant sacrifices. The number of striped bass harvested by recreational fishermen declined to less than 150,000 in 1986. This recreational fishery formerly (1979) supported economic activity which would be equivalent to $140 million in 1987 dollars. The longer than expected severe harvest restrictions have been the result of the slower than expected rate of maturation of females. Happily, the 1982 year class females are expected to spawn in significant proportions in 1988 and 1989 and the fishery should reopen in that time period.

Without the adoption of the ASMFC Plan, as stimulated by the Atlantic Striped Bass Conservation Act, the future of the recreational fishery was bleak. It is clear that funding for the Atlantic Striped Bass Conservation Act must be reauthorized to continue the recovery now well in progress but not yet fully attained. SFI strongly supports H.R. 4124.

Subcommittee staff have suggested two possible amendments to the Act. The first suggestion would require Secretarial review of any new ASMFC striped bass management plan and the second amendment deals with the possible imposition of a federal migratory striped bass conservation stamp to provide funding for striped bass management.

Since passage of the Atlantic Striped Bass Conservation Act, the ASMFC member agencies have demonstrated enhanced commitment to making the hard choices necessary to restore striped bass. This new posture should be recognized with appreciation by all groups with an interest in restoring striped bass. However, at a number of critical junctures over the years since passage of the Act, the direct involvement of the Secretaries of Commerce and Interior have provided the institutional resolve to "hold the course"; to continue the conservation activities required to restore the

striped bass stocks. While some may say that participation by the federal government in review of any new striped bass management plan is not necessary, SFI would suggest that a continued advisory role by the Secretaries in plan development provides additional buffering against the possibility (slight as it may be) of parochial forces within states to deviate from the best collective management strategy. Secretarial advisory review would seem to offer a safety net similar to that which has served well over the years since passage of the Act, and SFI supports adoption of this amendment.

The most interesting element of the Subcommittee's proposal involves the concept of a federal user fee collected from striped bass anglers and earmarked for striped bass management. At the outset, the SFI record on marine angling fees and licenses should be made clear. SFI has repeatedly gone on record as favoring properly designed licensing programs for marine anglers similar in intent, purpose and design to the requirements in every state for freshwater fishing and in eight coastal states for marine anglers. The justification for SFI's support of marine angler licensing is that the future of recreational fishing and the dependent industry relies fully upon the stewardship agencies' abilities to provide essential management required by the stocks and public participants. Striped bass management will, without question, require financial resources currently not available to the state management agencies. Although a user fee is deemed necessary and warrented, licensing of anglers and hunters within state borders (including internal and territorial waters), has always been a strongly guarded state perogative. SFI has been cognizant and supportive of the states' authority in this regard, and has supported only state licensing in state waters.

SFI supports the concept of a striped bass stamp with all proceeds

earmarked for striped bass management. However, licensing of anglers in state waters should continue to be a state perogative. We propose consideration of federal legislation that would lead the ASMFC to offer a model migratory striped bass conservation stamp program for implementation by the individual states. The federal legislation could be crafted to provide strong incentives for adoption by the states of the stamp. Failure to adopt a striped bass stamp by an ASMFC member state, for purposes of striped bass conservation under the ASMFS's striped bass plan, could (with federal incentive) result in restrictions on striped bass harvest within the waters of the uncooperative state, or be grounds for requiring a federal stamp. Such a concept was developed for federal licensing in lieu of state licensing, in legislation introduced during the 98th Congress. The proposed state stamp alternative could greatly reduce the states' concern over the licensing rights issue and possibly engender support among the affected coastal states. State licensing, it should be noted, would also provide a ready matching source for federal grants available to the states from the Sport Fish Restoration Account of the Wallop-Breaux Trust Fund.

SFI would strongly oppose use of any stamp proceeds as an offset to appropriations from the federal treasury used by federal agencies to meet their striped bass research responsibilities. Also, we would insist that all users of this common property resource participate equitably in the costs of management, not just recreational anglers. Equitability would entail a direct reflection of the harvesting pressure applied to the resource.

In summary, the Sport Fishing Institute recognizes that the Atlantic Striped Bass Conservation Act has well-served the sport fishing fraternity. Without the Act, the potential for an attractive recreational fishery with significant social and economic yields to the nation would not be on the

horizon. Reauthorization of funding authority for the Act is imperative. Continued Secretarial advisory involvement in striped bass plan development would seem justified and beneficial and is supported by the Institute. As the time approaches when the striped bass fishery will once again be fully accessible to the public, management requirements will escalate considerably. SFI agrees with the Subcommittee that some source of dedicated funding to support proper management, including data acquisition to guide both conservation and allocation decisions, must be forthcoming. The imposition of a federal migratory striped bass stamp will meet with strong and unified opposition by the states and others. However, a state issued striped bass stamp under the auspices of the ASMFC which has management responsibilities under the striped bass plan for the stocks in question, may offer a plausible alternative. The Sport Fishing Institute would like to work with the Subcommittee to examine this option more fully and will certainly make available our considerable experience on the marine angler licensing issue.

Thank you.

EAST HAMPTON TOWN BAYMEN'S ASSOCIATION, INC.
BOX 488, AMAGANSETT, NEW YORK 11930

May 5, 1988

To: Fisheries and Wildlife Conservation and
the Environment Subcommittee
Re: Reauthorization of the Atlantic Striped Bass Conservation Act

The good news from New York State is that our waters are teeming with striped bass, tens of millions of them, and they are fit to eat.

After seven years of notably successful striped bass reproduction in the Hudson River, the Hudson fish in 1987 produced an overwhelmingly successful spawn--a dominant year-class--that has at least doubled the standing stock, which was estimated by the Army Corps of Engineers in the early 1980's to consist of 40 million fish. Many millions of them are fit to eat.

The 1987 tests for PCB's in striped bass revealed that smaller bass (18 to 30 inches) caught on the East End of Long Island contain less than 2 parts per million PCB's.

The bad news from Washington is that New York's fishermen may not catch them. Washington has imposed on New York a 33-inch minimum size limit, on the grounds that striped bass are scarce. It seems to us in New York that supporters of the 33-inch size limit live on a different planet--our waters are teeming with striped bass.

We are commercial fishermen from the East End of Long Island. Our industry dates back to Colonial times, when much the same fishing gear was used as we use today. We have deep roots in this part of Long Island, but our own little community of fishing families is falling apart. Striped bass was the backbone of our fin-fishery, the fish that always brought good money at market. The impact of losing the striped bass fishery was so great that Governor Cuomo instituted in 1986 an emergency relief program for East End bass fishermen. We do not like to be on the dole.

The 33-inch size limit is, of course, the result of deliberations by the Striped Bass Board of the Atlantic States Marine Fisheries Commission (ASMFC).

The Board was created to come up with guidelines, or recommendations, for coastal management of striped bass. We supported this concept. In 1984, however, the Atlantic Striped Bass Conservation Act gave to the Board's recommendations the power of Federal law. Guidelines became mandates. We do not think this provision of the Act is a good idea at this time for the following:

1. The science of striped bass is uncertain, or why would bass scientists always be asking for more research money? The scientists readily admit the uncertainty of their theories, yet they appear to have gleefully taken hold of the reins of Federal power. Can uncertain science be used to justify the promulgation of fishing restrictions that are so severe as to eliminate traditional commercial fisheries? Some leeway for doubt is needed.

2. The Board's recommendations are based solely on the index of striped bass populations in Maryland. There are significant bass populations in Virginia, North Carolina, Delaware, New York, and elsewhere on the coast. No matter if Maryland's index of population is the most accurate one, it is accurate only for that State and it is a fallacy to base Federal law on the conditions that prevail in one State.

3. The Board's policies are inconsistent. For example, Maryland fishermen are allowed to catch Maryland bass at size 18 inches and up. New York fishermen may not catch New York bass until the fish is almost three feet long (33 inches). Whatever the justification for this policy, the policy is inconsistent.

4. The Board's policies are monolithic and inflexible. The politics of the Board and its operational machinery are exceedingly cumbersome. The Board cannot fine-tune its regulatory recommendations to the needs of particular states, nor can it act with reasonable speed to amend its policies. The ongoing revision of the Board's striped bass policy will have taken two years before it results in new management recommendations. Unlike the offshore fishing grounds in U.S. territorial waters, where ships from many states congregate. The in-shore fishing grounds that are under the jurisdiction of each state require individualized management by each state.

5. The ASMFC is an inter-state agency, funded by Federal money and empowered with regulatory authority by Federal law. As an inter-state agency, however, it is not subject to any Federal check or balance. This may not be Constitutional; it certainly is not common sense. The ASMFC is not required to adhere to the National Marine Fisheries Service's guidelines for formulating fishery management policy. Its recommendations are not subject to review by either NMFS or U.S. Fish and Wildlife. If the East Hampton Baymen's Association was in the same position, we could ban sportsfishing and the Federal government could do nothing about it. Would that justify our action?

According to the most recent survey of New York bass analyzed by Rhode Island University, the Hudson contribution to the New York harvest in 1985 was 82 per cent in the spring and 66 per cent in the fall. The situation has become intolerable to us. The spring run of bass has begun in our waters. We see them by the hundreds and by the thousands in our traps. We let them go, paralyzed by the monolithic, inflexible, and inconsistent policy of a government agency that has not heeded our pleas nor been tempered by reason.

We turn to the author of the Federal law that empowered this inter-state agency, and to the other Subcommittee members. We have three recommendations: (1) Amend the Act to eliminate the power of the Federal government to impose a moratorium on any state deemed noncompliant with ASMFC recommendations; (2) amend the Act to require compliance by ASMFC with National Marine Fisheries Service guidelines for fishery management policy; (3) use whatever means are at your disposal to persuade ASMFC that its recommendations for striped bass management must be made on the basis of assessment of the total coastal stock of the fish.

Submitted by:

Arnold Leo
Secretary,
East Hampton Town Baymen's
Association

International Association of Fish and Wildlife Agencies
(Organized July 2, 1902)
444 North Capitol St., NW, Suite 534, Washington, DC 20001 (202) 624-7890
Jack H. Berryman, Executive Vice President

STATEMENT OF THE INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES
ON HR 4124, REAUTHORIZATION OF THE STRIPED BASS CONSERVATION ACT
FOR THE HOUSE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
May 5, 1988
by
Gordon C. Robertson, Legislative Counsel

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in the promotion of the principles of sound resource management and the strengthening of federal, state and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The Association supports a 3-year reauthorization of the Striped Bass Conservation Act and opposes any amendments that would impose a federal striped bass stamp; allow greater federal authority; or a more liberal harvest.

The fish and wildlife resources occurring within the boundaries of, and in the Territorial Seas adjacent to, individual states are held in trust by the states for the enjoyment, appreciation, economic and scientific benefit of present and future generations. A high priority of the state members of this Association is the development and/or maintenance of adequate stocks to ensure the aforementioned benefits.

Traditionally, the states and federal fishery agencies have cooperatively and jointly implemented programs for shared marine and estuarine fishery resources. In state waters, fisheries are regulated by the states, with federal participation in law enforcement and habitat conservation, as well as technical and financial support. In a similar fashion, fisheries in the Exclusive Economic Zone are regulated by the federal government, and states provide substantial technical support and assistance in law enforcement, data collection and habitat conservation. The Association strongly recommends the continued maintenance of this essential relationship which has taken many decades to develop.

As previously indicated, this Association is strongly opposed to any federal fishing license or stamp. Licensing is the prerogative of the states and several are currently building public and legislative support for their own state marine licensing program.

There has been substantial state and federal progress in management of shared marine and estuarine fishery resources over the past 15 years. This progress has manifested itself in many ways including: cooperative enforcement agreements between the National Marine Fisheries Service (NMFS) and the states and cooperative investigations on specific enforcement problems; active state participation in federal Fishery Management Council functions; numerous formal and ad hoc cooperative state-federal fishery data collection projects; establishment of federally assisted fishery management programs such as the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fisheries Management Program. State marine fishery managers and the federal services are continuing to work to strengthen the partnership, the quality of our programs, and the benefits of improved management to marine fisheries.

Because it provides for the possibility of federal regulation of fisheries in state waters, the Atlantic Striped Bass Conservation Act (ASBCA) is not consistent with traditional state and federal roles. The Congress, however, has thoroughly demonstrated legitimate and historic interest in striped bass. Congressional leadership, in enacting and continuing to support the Anadromous Fish Conservation Act, the Emergency Striped Bass Study and similar initiatives, has clearly provided the basis for insuring that federal investments in striped bass restoration lead to success.

Furthermore, Congress carefully crafted the ASBCA to incorporate provisions which offset critical states' rights concerns. These features include the provision that the Atlantic States Marine Fisheries Commission, and not federal executive agencies, has sole authority to determine what management measures striped bass resources require. Moreover, the Commission members must initially determine a state not to be in compliance with the provisions of the Interstate Plan before the Secretaries of Interior and Commerce can act. These two provisions appropriately preserve the interests and roles of state governments in management of striped bass in their waters.

Lastly, it is indisputable that ASBCA has been effective. All states have been, and remain, in compliance with the terms of the Interstate Plan despite strong user pressure in many states and legislative initiatives in some, to retreat from those provisions. These carefully crafted aspects of the ASBCA are important and changing them could:

1. Disrupt the progress of cooperative implementation of all aspects of fishery management, including enforcement cooperation between one or more states and the federal government.

2. Cause difficulties associated with enforcing a striped bass fishing moratorium in one or more states by already overwhelmed federal fishery enforcement agencies. This could lead to a loss of credibility in federal and interstate fishery management.

3. Cause an increase in federal striped bass regulatory efforts at the expense of other already chronically underfunded fishery programs. This concern is exacerbated by continuing Administration proposals to dramatically reduce the budget for fishery management programs.

Amendments to strengthen the federal role by authorizing the Secretaries of Commerce and Interior to approve the Interstate Plan, or to initiate sanctions against a state absent an ASMFC finding, would tip the provisions of ASBCA into clearly objectionable areas of federal preemption. The fact that this issue has arisen clearly demonstrates the dangers and problems inherent in any discussion of federal regulation of fishing in state waters.

As previously stated, we support an unamended reauthorization of an Act that has worked very well. As presently constituted, the ASBCA insures that the Atlantic States Marine Fisheries Commission states, and not federal executive agencies, have the key role in striped bass management decisions. The Association recognizes that the ASBCA is a well-thought and carefully crafted reflection of Congressional interest and historic leadership in management of restoration in striped bass stocks in the northeastern United States.

The Association oppposes any initiative which would extend the provisions and procedures of this Act to the management of other species of marine fish and shellfish. We would likewise oppose any amendment which would authorize federal approval of the Interstate Plan or authorize the Secretaries to initiate federal regulation in state waters absent a finding of non-compliance by ASMFC.

American Fisheries Society

STANLEY A. MOBERLY
President 1987-1988

CARL R. SULLIVAN
Executive Director

PAUL BROUHA
Deputy Director

Statement of Carl R. Sullivan, Executive Director
American Fisheries Society
for the record of the House Subcommittee on
Fisheries and Wildlife Conservation and the Environment
regarding reauthorization of the
Atlantic Striped Bass Conservation Act (H.R. 4124)
May 5, 1988

Mr. Chairman, I am Carl Sullivan, Executive Director of the American Fisheries Society. The 8000 members of our Society are all professional fisheries scientists and fisheries biologists employed by universities, government agencies of all levels, and the private sector. This is our 118 year of active involvement in fisheries resource conservation and fisheries science issues. We thank you for the opportunity to comment.

Mr. Chairman, the American Fisheries Society is an organization of a great many disciplinary subgroups which concentrate and specialize on specific fisheries subjects. One such group is the Striped Bass Committee of our Southern Division. The Striped Bass Committee has 32 members from 16 east coast states plus a dozen committee advisors. They have a particular interest in all subjects related to striped bass. There has not been time to check in a formal way with this entire committee, however, I have

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counseled with the leadership in developing the position which is conveyed in this testimony.

The AFS supports the reauthorization of the Atlantic Striped Bass Conservation Act. This visionary legislation has provided the mechanism and incentive for states to place the long term health of the fisheries resource ahead of the short term special interest of exploitation. The Conservation Act is working just as its authors hoped it would. We see signs that migratory stocks of striped bass are beginning to build. It's a classic example of good management of interjurisdictional stocks and it is unthinkable to terminate this grand initiative short of final victory. We strongly urge that the act be reauthorized for 5 years to send a very clear signal to the states and the public that there is an unwavering commitment to solving the problem.

Mr. Chairman, equally important to the recovery of devastated striped bass stocks is the continuation of the Emergency Striped Bass Program. This is one of the few initiatives that have brought the Fish and Wildlife Service and the National Marine Fisheries Service together working efficiently and cooperatively for a single purpose. The Emergency Striped Bass Program has an important place in recovery efforts and it must be sustained until successful natural reproduction is documented on a large scale and until we learn the relative damage done by over fishing and contaminated water induced juvenile mortality.

In response to the committee's specific questions about possible administrative review by the Secretary and a striped bass stamp, we have a mixed response. We believe that Secretarial

review is unnecessary and would slow the process considerably. As now structured senior level fisheries administrators at the state and federal level are heavily involved with ongoing review. The necessary checks and balances are in place and functioning. Secretarial review would create only delay and redundancy.

We give our qualified support to a special striped bass stamp. The user pay approach to fish and wildlife management is strongly supported by our organization. Wallop Breaux, Pittman Robertson, Dingell Johnson are all user pay approaches to resource management and we see trout, deer, duck, turkey, salmon, national forest access, bear, etc. stamps becoming increasingly used to provide research and management funding for the subject species. Of course, fisheries management in state territorial waters is clearly a state responsibility and there is some concern about the interjection of the federal government into the process. Striped bass, however, are interjurisdictional species requiring the coordinated involvement of all jurisdictions including the federal government. The recovery effort has required a state federal partnership and there is no reason why it could not include a partnership in the issuance of a striped bass stamp. If all of the proceeds from sale of a striped bass stamp are dedicated to striped bass research management and recovery, and if the proceeds from the federally issued stamp are shared fairly with the effected states, then we support the stamp concept.

Mr. Chairman, the American Fisheries Society thanks you for this opportunity to testify on this important subject.

TESTIMONY SUBMITTED FOR THE RECORD

ATLANTIC STRIPED BASS CONSERVATION ACT

SUBCOMMITTEE ON FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT

MAY 5, 1988

DICK RUSSELL

PRESIDENT, STRIPED BASS EMERGENCY COUNCIL

BOSTON, MASSACHUSETTS

The Striped Bass Emergency Council, of which I am President, was established in 1984 under the aegis of the National Coalition for Marine Conservation to push for stronger regulations to preserve the Atlantic striped bass. Since that time, considerable progress has been made in beginning to bring about a restoration of this magnificent species of fish, which many experts feared would soon virtually disappear unless immediate steps were taken to severely limit overfishing and to clean up pollution in the bass' spawning habitat. The state of Maryland, in whose Chesapeake Bay waters about 90% of the coastal migratory striped bass historically have spawned, has imposed a moratorium on all striper fishing since January of 1985. The ten other states along the fish's annual migratory path, from Maine to North Carolina, have also implemented much tougher measures to achieve a 55% reduction in overall fishing effort and specifically to protect the small fish, in an effort to allow at least 95% of these to spawn at least once before they can be taken by fishermen.

None of this would have been possible without the Atlantic Striped Bass Conservation Act, first passed in 1984. Before the

Congress saw fit to enact this measure, regulatory efforts of the Atlantic States Marine Fisheries Commission (ASMFC), under its striped bass management plan, perpetually hogged down in infighting between the various states over allocation of the resource. The Act, which forces the states to follow the dictates of the plan or face a Federally-imposed moratorium, has been the key toward maintaining the vitally needed stricter regulations to protect the striped bass. It is critical to the future of the striped bass population that this legislation (H.R. 4124) be reauthorized for an additional three years.

While the species has shown signs of a comeback, despite continued reproductive problems in the polluted waters of the Chesapeake Bay, the future of the striped bass - whose vaunted history dates back to enabling the Pilgrims to survive during their first winters off of Cape Cod - is by no means assured. The 1982 year class, the last of the healthy year classes to reproduce in the Cheapeake Bay, has so far been protected by the ASMFC and the Congressional law. Evidence indicates that the females from this year class did not reach spawning maturity as quickly as had been expected, thus no relaxation of the current size limit restrictions is anticipated. Officials with the ASMFC have expressed their intent to continue keeping a minimum size limit of at least thirty-three inches in place to protect the pre-spawning stock. This will only be possible if all of the coastal states are mandated to adhere to the approved ASMFC regulations by the Federal government.

Already there has been talk in some states about allowing a "bycatch" for certain fishing constituencies, for example the Long Island haul-seiners who are seeking an opportunity to

commercially sell 100 pounds of striped bass per day. While it is true that the Hudson River has seen a substantial revival in its striped bass population (resulting primarily from a ban on commercial sale in New York State due to high levels of PCB contaminants in the fish which spawn there), the fact is that an unknown but significant number of the small fish migrating along the shores of Long Island originate in the Chesapeake. Any allowance for fishermen there, or elsewhere, to catch these fish would serve not only to defeat the purpose of the ASMFC management plan - which is, protecting the coast's pre-spawning age striped bass - but would be a "loophole" opening the door for fishermen in other states to make their own claims for an exemption. Because striped bass are a migratory fish, any regulations deemed necessary by the ASMFC must be inclusive of all states and all user groups, across the board.

The Striped Bass Emergency Council, which is not a membership organization but is in constant touch with fishermen all across the Atlantic coast, also supports Secretarial review of any new Striped Bass Plan that is adopted by the ASMFC. This would provide needed oversight by Federal scientists of coastal management, and be an additional incentive to potentially reluctant states to do their utmost to preserve the stock.

The Council also supports the creation of a Federal Migratory Striped Bass Stamp, along the outlines proposed by the staff of the Subcommittee on Fisheries and Wildlife Conservation. Because the ultimate causes of the striped bass' decline are still unknown - although they certainly include overfishing along the entire coast and pollution in the Chesapeake Bay region - it is tantamount that the Federal Emergency Striped Bass Study be

continued for as long as necessary. In discussions with a number of coastal fishermen, I have found support for such a Stamp to be purchased by anyone over the age of eighteen who keeps a striped bass - provided that revenues are specifically earmarked for further study of the bass' situation. It has also been suggested that some of the funds generated from sales of the Stamp be designated for habitat restoration programs where deemed appropriate by the Federal and State fisheries agencies.

As a long-time fisherman, conservationist, and author of numerous published articles about the striped bass and other ocean resources, it is my fervent hope that the Atlantic Striped Bass Conservation Act, with the two amendments proposed, be reauthorized in the immediate future. Thank you.

--Dick Russell, President

Dick Russell

Striped Bass Emergency Council

Boston, Massachusetts

Maryland Department of Natural Resources
Tidewater Administration
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

William Donald Schaefer
Governor

Torrey C. Brown, M.D.
Secretary

May 5, 1988

The Honorable Gerry Studds
Chairman, Subcommittee on Fisheries
and Wildlife Conservation and the
Environment
U.S. House of Representatives
1334 Longworth Building
Washington, D.C. 20515

Dear Chairman Studds:

May I request that this letter be a part of the record of the Subcommittee's hearing on the reauthorization of the Atlantic Striped Bass Conservation Act (Act). Although we were unable to obtain a copy of the proposal being heard by the Subcommittee, the Maryland Department of Natural Resources has a direct and strong interest in the reauthorization of the Act.

Maryland was a key state in efforts which resulted in the development and adoption of a coastal fishery management plan for striped bass by the Atlantic States Marine Fisheries Commission (Commission). The Act has been a strong influence in fostering joint management of striped bass stocks by all states from Maine to Florida. The recovery of the coastal stocks has been dramatic, particularly in Chesapeake Bay where we have maintained a total moratorium since 1985. We now see evidence of recovery, particularly the presence of the 1982 year class in the Bay spawning population, which is highly encouraging. The objective of increasing the spawning population is clearly being achieved rapidly. The remaining objective to be reached is a three year running average of 8 in the Maryland young-of-year survey. When this objective is achieved the stocks will be determined to be restored and capable of sustaining a fishery. In plain words, we need to begin planning a new phase of striped bass management; managing a fishery on a recovered population so that we do not repeat the boom and bust cycles of the past.

The Striped Bass Conservation Act should be reauthorized with that purpose in mind and, therefore, should be amended to meet that objective.

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First, the Act should be amended to require the Secretary(s) to impose the applicable management measures in State waters if the State(s) are determined to be not in compliance by the Commission. Because we must look forward to managing a fishery rather than restoring a depleted population, this would be an appropriate action. Recall that one of the underlying principles of the Commission plan is to have unified management measures in each State to avoid the confusion of different and conflicting State regulations that were determined to be the major problems prior to the present plan.

Second, the Act should be amended to include a provision that striped bass caught in the EEZ must conform to the requirements of the State where landed. Adoption of this provision would do two things; (1) it would include the EEZ portion of the striped bass stock in the unified State management plan, and (2) it would eliminate the need for a separate Fishery Management Plan by the Regional Management Councils.

Because we have been unable to review a copy of the proposal to date, we cannot comment specifically on the proposal to establish a coastal striped bass stamp. We do have a Chesapeake Bay saltwater fishing license in Maryland which incorporates a sportfishing stamp. May I request that we be permitted to submit additional comments on the proposed stamp after opportunity to study that portion of the legislation. Attached is a copy of the Maryland Annotated Code and regulations governing the special sport fishing license and stamp.

Sincerely,

W. P. Jensen
Director, Fisheries

WPJ/lk

enclosure

member of any board, commission, committee, or other agency or unit. A person who is a member of such a unit on July 1, 1987 shall remain a member for the balance of the term to which he was appointed, unless he sooner dies, resigns, or is removed pursuant to the provisions of law."

Section 11 of ch. 306 provides that "except as expressly provided to the contrary in this act, any transaction affected by or flowing from any statute here amended, repealed, or transferred, and validly entered into before July 1, 1987 and every right, duty, or interest following from it remains valid after July 1, 1987 and may be terminated, completed, consummated, or enforced pursuant to law."

Section 12 of ch. 306 provides that "except as otherwise provided in this act, all permits and licenses, applications for permits and licenses, rules and regulations, proposed rules and regulations, standards and guidelines, proposed standards and guidelines, orders and other directives, forms, plans, memberships, special funds, appropriations, grants, applications for grants, contracts, properties, investigations, administrative and judicial proceedings, rights to sue and be sued, and all other duties and responsibilities associated with those functions transferred by this act shall continue in effect under the Secretary of the Environment or the appropriate board, council, or other unit within the Department, until completed, withdrawn, cancelled, modified, or otherwise changed pursuant to law."

§ 4-745. Chesapeake Bay sport fishing license.

(a) *License required; fee.* — (1) Except as provided in subsections (c) and (d) of this section, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries without first obtaining a Chesapeake Bay sport fishing license.

(2) The license may be obtained from the Department, clerk of the circuit court of each county, or from any authorized agent of the Department. The annual fee for the license is $5.

(3) Except for a license issued pursuant to subsection (d), every Chesapeake Bay sport fishing license shall be valid for not more than 1 year and shall expire on December 31.

(b) *Designation of agents; disposition of fees.* — (1) The Department may designate a person engaged in a commercial enterprise to sell the Chesapeake Bay sport fishing license as an agent under the Department's control and supervision.

(2) The clerk of the court or agent shall retain the sum of 50 cents as compensation for issuing each license that costs at least $5, or 25 cents if the license is less than $5.

(3) The Chesapeake Bay sport fishing license shall be furnished to an agent upon satisfactory payment or upon consignment and only if the Department is given adequate security to insure ultimate payment by an agent to the Department for the licenses.

(4) All fees collected on behalf of the Department pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit with the State Treasurer to the credit of the Fisheries Research and Development Fund to be used for the replenishment, protection, and conservation of fish stocks caught by recreational fishermen, for enhancement of recreational fishing opportunities, and for research concerning tidal fishery resources. The Department shall publicly report annually the amounts collected and the expenditures.

(5) In the preparation of plans for the expenditure of license receipts, the Secretary annually shall solicit the advice and opinions of the Department's

Sport Fisheries Advisory Commission, representative fishing and boating associations, and other interested parties.

(c) *Persons not required to have license.* — A person may fish for finfish in the Chesapeake Bay or its tidal tributaries without a Chesapeake Bay sport fishing license if the person:

(1) Is 65 years of age or older;

(2) Is less than 16 years of age;

(3) Possesses a valid commercial license;

(4) Is fishing from private real property as an owner, family member of an owner, or nonpaying guest of an owner;

(5) Is fishing with a hook and line from a public bridge or public pier which has been designated by the Department as a free fishing area;

(6) Holds a valid Chesapeake Bay sport fishing license issued by the State of Virginia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia requirements for a Chesapeake Bay sport fishing license are substantially similar to the requirements of this section;

(7) Is fishing pursuant to any special license issued under subsection (d) of this section; or

(8) (i) Is on active duty with the armed forces of the United States;

(ii) Is a resident of this State;

(iii) Is on leave from the armed forces; and

(iv) Has, while fishing, a copy of the person's official leave orders.

(d) *Special licenses.* — (1) The Department may provide by regulation for issuance of special Chesapeake Bay sport fishing licenses, which shall authorize fishing by the special licensee for a stated period of time, not to exceed 3 consecutive days. The fee for each license issued shall be $2.

(2) The Department may provide by regulation for issuance of a special charterboat license that would be valid for all individuals on a charterboat operated by a licensed fishing guide. The fee shall be:

(i) For 6 fishermen or less ..... $200.

(ii) For 7 or more fishermen ..... $240.

(3) The Department may provide by regulation for issuance of a special Chesapeake Bay sport fishing license to a person who holds a valid angler's license under Subtitle 6 of this title. The annual fee for such a special license shall be one half the annual license fee provided under this paragraph (a) (2).

(4) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay sport fishing license, which when permanently affixed to a boat, shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries, except that such a license may not be used on a boat which has been hired to take such persons fishing.

(ii) The annual fee for this special license shall be $25.

(iii) If a boat owner purchases the special license under this paragraph, the boat owner may fish anywhere in the Chesapeake Bay, whether the boat owner is fishing in the owner's boat, in another person's boat, on land, or elsewhere. (1984, ch. 792; 1985, chs. 407, 636.)

Effect of amendments. — Chapter 407, Acts 1985, effective July 1, 1985, in subsection (d), designated the provisions of paragraph (4) as subparagraphs (i) and (ii) and added subparagraph (iii).

Chapter 636, Acts 1985, effective July 1, 1985, added paragraph (8) of subsection (c).

Editor's note. — Section 2, ch. 792, Acts 1984, provides that "the Department may initially issue a Chesapeake Bay sport fishing license with an effective date concurrent with the effective date of this act to extend through December 31, 1986. The fee for this one time license shall be $7.50. Additionally, the Department may initially issue a 12-month Chesapeake Bay sport fishing license with an effective date of January 1, 1986 through December 31, 1986. The fee for this one time license shall be $5. This section shall have no force or effect after December 31, 1986."

Section 3 of ch. 792 provides that the act shall take effect Jan. 1, 1985.

§ 4-745.1. Chesapeake Bay sport fishing stamp.

(a) *Issuance.* — (1) The Department may issue a Chesapeake Bay sport fishing stamp as part of the license required in § 4-745 of this subtitle.

(2) If the Department issues a stamp, one-half of the license fee established in § 4-745 of this subtitle shall be charged to the stamp.

(b) *Sales; production.* — The Department may:

(1) Order more stamps than necessary for license purposes;

(2) Issue official prints of the stamp illustration;

(3) Sell stamps and prints to interested persons, including dealers and collectors, provided that stamps may be sold only for the price established as a stamp fee in subsection (a) of this section;

(4) Enter into a contract with a person or company to handle publication, distribution, and sale of stamps and prints under this subsection, with consideration being a percentage of the profits; and

(5) Sell or cause to be sold stamps and prints outside of the State.

(c) *Chesapeake Bay Living Resources User Fund.* — (1) There is a Chesapeake Bay Living Resources User Fund.

(2) All funds received from the sale of the Chesapeake Bay sport fishing stamps and prints for nonlicense purposes, as provided in this section, shall be first applied to the payment of the expenses of printing, distributing, and advertising the stamps and prints. After that time, all remaining funds shall be paid to the State Treasurer to be placed in the Chesapeake Bay Living Resources User Fund.

(3) (i) The Fund is a nonlapsing revolving fund to be maintained by the Treasurer.

(ii) The Department shall expend the money in the Fund, as provided in the budget, for the sole purpose of alleviating the detrimental impact caused by the failure and decline of the living resources of the Chesapeake Bay, including, but not limited to, finfish, oysters, and waterfowl.

(4) Before August 1 of each year, the Department shall report annually to the Legislative Policy Committee of the General Assembly on the following:

(i) The amount of money placed in the fund during the prior fiscal year and expected to be received in the current fiscal year; and

(ii) The amount of expenditures to be proposed in the budget for the following fiscal year and the purposes for the expenditures.

(5) Each year the Legislative Policy Committee of the General Assembly may recommend for inclusion in the State budget specific uses of the Fund,

which are consistent with the purposes stated in paragraph (3) of this subsection. These recommendations are not binding on the Governor or the Department. (1984, ch. 719.)

Editor's note. — Section 2, ch. 719, Acts 1984, provides that the act shall take effect July 1, 1984, contingent upon the taking effect of House Bill 978 or Senate Bill 662. Senate Bill 662 was enacted as Chapter 792 of the Acts of 1984.

§ 4-746. Annual survey of striped bass.

(a) *Authority of Department to conduct.* — The Department shall conduct annually a scientific survey to determine the relative abundance of striped bass or rockfish of approximately 18 inches in length that are in the Chesapeake Bay and its tributaries. The survey shall be conducted in areas that are used by the Department to determine its young-of-the-year index of striped bass or rockfish.

(b) *Reports.* — The Department shall complete the survey and report its results, subject to § 2-1312 of the State Government Article, to the General Assembly not later than December 1 of each year. (1986, ch. 617.)

Editor's note. — Section 2, ch. 617, Acts 1986, provides that the act shall take effect July 1, 1986.

Subtitle 8. Crabs.

§ 4-801. Definitions.

(a) *In general.* — In this subtitle, the following words have the meanings indicated.

(e) *Peeler.* — "Peeler" means a crab which has a soft shell that is developing under the hard shell, on which there is a white, pink, or red line or rim on the edge of that part of the back fin next to the outer section of this fin. (1987, ch. 263, § 2.)

Effect of amendment. — The 1987 amendment, approved Apr. 29, 1987, and effective from date of passage, reenacted subsections (a) and (e) without change. As the remainder of the section was not affected by the amendment, it is not set forth above.

§ 4-804. License for catching crabs for commercial or noncommercial purposes.

(a) *License required for commercial purposes.* — Any person who owns or is in charge of operating a vessel utilized to catch crabs in the waters of the State for commercial purposes shall obtain a license.

(b) *Exceptions to license requirement.* — Any person crabbing from a "for hire" boat operated by the owner, who is present on the boat and is licensed to catch crabs for commercial purposes, is not required to obtain a license.

(1) Notwithstanding the provisions of Natural Resources Article, §4-737, Annotated Code of Maryland, a person may not catch, offer for sale, purchase, or possess any hickory shad or any parts of hickory shad, including roe, caught in Maryland waters except as permitted here.

(2) Exceptions.

(a) A person may catch hickory shad in cooperation with a scientific investigation of the Department.

(b) The incidental catching of hickory shad by fishing gear set for other species will not be considered a violation of this section if the hickory shad is returned to the water.

B. Possession or Sale of Hickory Shad Lawfully Taken in Another Jurisdiction. The provisions of §A, above, do not prohibit the entry into the State, or possession, transportation, exportation, processing, sale, offer of sale, or shipment of hickory shad which were caught in waters not under Maryland jurisdiction, if the person engaging in the activity possesses a bill of sale which identifies the hickory shad as originating from waters not under Maryland jurisdiction.

.07 VACANT — See Administrative History.

.08 Eels — Restricted Fishing Areas.

A. A person may not set buoyed eel pots in those channels designated as crab pot buoy free channel under COMAR 08.02.03.01J(5)(a)(iv).

B. In addition to those defined in COMAR 08.02.03.01J(5)(a)(iv), a person may not set buoyed eel pots in the following channels:

(1) Severn River: 50 yards channelward of a line from Whitehall Creek Fl 4 sec "2" to R "4", and 50 yards southwest of a line from Whitehall Creek Fl 4 sec "2" to Mill Creek R "2";

(2) South River: 100 yards channelward of a line marked by Fl R 2.5 sec "4", Fl R 4 sec "6" and Fl R 4 sec "8";

(3) Rhode River: 50 yards westerly of a line marked by Fl R 4 sec "2", R "4" and a point 50 yards east of Fl G 4 sec "7".

.09 Special Chesapeake Bay Sport Fishing License.

A. There is a special Chesapeake Bay Sport Fishing License. A person may purchase a special Chesapeake Bay Sport Fishing License for the purposes and for the fees prescribed below. This license shall be valid for the license year in which it is issued and is in place

of any other license required for a person who fishes for finfish for recreational purposes in the tidal portion of Chesapeake Bay or in its tributaries. The following shall apply:

(1) A license valid for 3 consecutive days within the license period in which it is issued ..... $2.

(2) A license valid through December 31 of each license year for a sport fishing boat for hire operated by a licensed commercial fishing guide and carrying:

(a) Six passengers or less $200;

(b) Seven or more passengers ..... $240.

(3) A license valid through December 31 of each license year for a private pleasure boat which authorizes any person on the boat to fish for finfish, except that this license may not be used on a boat which has been hired or for which any compensation has been received by the owner or operator ..... $25.

(4) A Chesapeake Bay Sport Fishing Stamp valid through date of issue to validate an anglers license valid for the same period in which the Chesapeake Bay Sport Fishing License is issued .... $2.50.

B. Sticker In Place of License.

(1) The Department may issue a validation sticker to be displayed on either side of the forward half of the vessel in evidence of a license for the sport fishing boats for hire and for the private pleasure boats.

(2) The stickers shall be color coded, dated, serialized, and of a size to be visible, and shall be displayed whenever the occupants of the respective vessels are engaged in the activity of fishing while in the Chesapeake Bay or its tributaries. The sticker when displayed exempts all persons aboard from the requirement of possessing an individual license to fish for pleasure.

C. Applications. A person desiring a special license shall apply on an application prescribed by the Department. The application may contain the name, address, and description of the applicant and shall contain the applicant's signature.

D. Where to Apply.

(1) A person may procure a 3-day limited license or a Chesapeake Bay Sport Fishing Stamp from:

(a) The clerk of the circuit court of each county;

(b) An agent designated by the Department; or

(c) The Department.

(2) The sticker for the boats for hire and for private fishing may be procured from the Department.

(3) A person may apply by mail.

E. Duplicates. If the validation sticker issued in place of a special Chesapeake Bay Sport Fishing License is lost or destroyed, the person to whom the sticker was originally issued may apply for a duplicate by submitting to the Department:

(1) An application on a form the Department requires including a statement regarding the validation sticker's loss; and

(2) A fee of $1.

F. Possession of License.

(1) The Chesapeake Bay Fish License and Stamp shall be in the possession of the person fishing and is not transferable.

(2) The validation sticker shall be permanently affixed to the boat for which it was issued and is not transferable.

G. License free fishing areas are as posted at the following locations:

(1) North East — North East Community Park at mouth of North East Creek.

(2) Chestertown — Maryland Route 213 Bridge over Chester River.

(3) Cambridge — Long Wharf from south end of city-owned bulkhead associated with the Municipal Yacht Basin within Cambridge Creek to the end of east breakwater at mouth of the Municipal Yacht Basin.

(4) Denton — Pier associated with G. Daniel Crouse Memorial Park on the east side of Choptank River north of Maryland Route 404 Bridge.

(5) Sharptown — Town dock downstream of Route 348 bridge over the Nanticoke River.

(6) Salisbury — Designated city-owned bulkhead on the Wicomico River between Mill Street and Division Street.

(7) Snow Hill — City docks within Byrd Park on the Pocomoke River.

(8) Pocomoke City — City docks from Laurel Street boat ramp to U.S. Route 13 overpass and Winter Quarter dock on Pocomoke River.

(9) Havre de Grace — Tydings Memorial Park within designated area, and pier at the end of Congress Street.

(10) Baltimore County — Cox's Point on Back River and Deep Creek.

(11) Baltimore City — Canton Recreational Pier at Boston Street, Hull Street Recreational Pier, and Middle Branch Park from fishing pier south of the Hanover — Pottee Street Bridges, to Hanover Street Bridge over Middle Branch.

(12) Annapolis — Maryland Route 450 bridge over the Severn River.

(13) Worton — Bridge No. K-004 over Still Pond Creek on Still Pond Creek Road near Chestertown.

(14) Snow Hill — County bridge on Porter's Crossing Road west of U.S. Route 113 and east of Route 354 and Pocomoke River.

(15) Pocomoke City — County-owned dock at Cedar Hall Landing near western terminus of Route 371 on Pocomoke River.

(16) Wicomico County — Tyaskin Park — County-owned park on Wetipquin Creek west of Rt. 349 at Tyaskin.

(17) Charles County — Friendship Landing — County-owned pier and property adjacent to the pier off Friendship Landing Road southeast of Ironsides Riverside Road (Rt. 425) on Nanjemoy Creek.

Administrative History

Effective date: June 25, 1975 (2:14 Md. R. 1014)

Regulation .02 amended as an emergency provision effective March 1, 1978 (5:5 Md. R. 321); adopted permanently effective June 16, 1978 (5:12 Md. R. 966)

Regulation .02 amended as an emergency provision effective April 24, 1979 (6:9 Md. R. 725); emergency status expired September 1, 1979

Regulation .02 amended effective February 22, 1980 (7:4 Md. R. 347); February 8, 1982 (9:1 Md. R. 19)

Regulation .02B, D — F amended effective January 30, 1984 (11:2 Md. R. 112)

Regulation .02D amended as an emergency provision effective March 15, 1982 (9:6 Md. R. 612), expired April 1, 1982; amended as an emergency provision effective March 15, 1983 (10:5 Md. R. 462); emergency status expired March 26, 1983

Regulation .02D and F amended effective August 15, 1983 (10:16 Md. R. 1450)

Regulation .02F amended as an emergency provision effective September 1, 1983 (10:19 Md. R. 1683); adopted permanently effective December 19, 1983 (10:25 Md. R. 2267)

Atlantic States Marine Fisheries Commission
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May 13, 1988

Hon. Gerry Studds
Chairman, Subcommittee on Fisheries
and Wildlife Conservation and
the Environment
1334 Longworth House Office Bldg.
Washington, DC 20515-6230

Dear Chairman Studds:

I mentioned in last week's testimony on reauthorization of the Atlantic Striped Bass Conservation Act that I would discuss the two amendments mentioned (Secretarial review, striped bass stamp) with our Commissioners and relay this information to your Subcommittee. The ASMFC Striped Bass Board, Interstate Fisheries Management Policy Board, and Executive Committee met on 10-12 May and discussed these issues. In addition, they discussed an amendment to close a regulatory loophole in the EEZ.

The Commissioners unanimously opposed the idea of Secretarial review of the new ASMFC Striped Bass FMP. They believe that a higher level of Federal involvement in striped bass management, past that of the Atlantic Striped Bass Conservation Act, is unjustified. The current involvement of NMFS and the USFWS, including voting membership on the Interstate Fisheries Management Policy Board, gives the two agencies ample input in the FMP planning process to assure that their concerns are met.

ASMFC also currently opposes the issuance of a Federal Striped Bass Conservation Stamp. The Commission did think that the concept of a striped bass stamp should be further discussed. They suggested that ASMFC could study the idea and that report language be drafted to allow 18 months for this study. If this is acceptable to the Subcommittee, our respective staffs can discuss the necessary details.

The Commission endorses the amendment proposed by the State of Maryland that would require that striped bass caught in the EEZ conform to the laws of the state in which they are landed. This amendment would close a loophole that allowed tens of thousands of pounds of striped bass to be landed in Maryland. Maryland officials are working to close this loophole but, because of their legislative schedule, are unable to do this in a timely fashion.

We would be pleased to further discuss these issues with the Subcommittee and appreciate your allowing ASMFC to comment on reauthorization of the Atlantic Striped Bass Conservation Act.

Sincerely,

Irwin M. Alperin
Executive Director

cc: Robert A. Jones, Chairman, ASMFC
Duane Harris, Vice Chairman, ASMFC

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